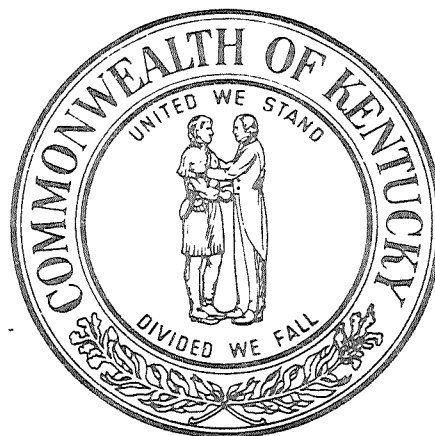


# of Administrative Register kentucky

LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

VOLUME 11, NUMBER 9  
FRIDAY, MARCH 1, 1985



## IN THIS ISSUE

Public Hearing.....	1241
Emergency Regulations Now In Effect:	
Agriculture.....	1241
Education.....	1243
Human Resources.....	1245
As Amended:	
Board of Medical Licensure.....	1256
Housing, Buildings and Construction.....	1258
Amended After Hearing:	
Natural Resources.....	1262
Education.....	1267
Human Resources.....	1271
Proposed Amendments:	
Board of Veterinary Examiners.....	1272
Board of Examiners and Registration of Architects.....	1273
Natural Resources.....	1278
Public Service Commission.....	1301
Housing, Buildings and Construction.....	1308
Human Resources.....	1323
Proposed Regulations Received Through February 15:	
Agriculture.....	1343
Natural Resources.....	1345
Human Resources.....	1348
Reprint:	
Human Resources.....	1350
Minutes of the Administrative Regulation Review Subcommittee.....	1358

## CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	I2
KRS Index.....	I12
Subject Index.....	I19

UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND  
A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING  
AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING  
DATE, THE HEARING MAY BE CANCELLED.

MEETING NOTICE: The next meeting of the Administrative Regulation  
Review Subcommittee is March 11 and 12, 1985. For information, call  
502-564-8100, ext. 535.

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806	KAR	50 : 155
Cabinet, Department, Board or Agency	Bureau, Division, or Major Function	Specific Area of Regulation

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## PUBLIC HEARINGS

The administrative body shall schedule a public hearing on proposed administrative regulations, proposed amendments to administrative regulations, and proposed repeal of administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication of the administrative regulation. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

This information shall be published in the "Administrative Register" at the same time as the initial publication of the administrative regulation. Any person interested in attending the hearing must submit written notification of such to the administrative body at least five (5) days before the scheduled hearing. If no written notice is received at least five (5) days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will note upon the face of the original administrative regulation that the hearing was cancelled.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

If an administrative body has several proposed administrative regulations published at the same time, the proposed administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings.

## EMERGENCY REGULATIONS NOW IN EFFECT

(NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.)

## STATEMENT OF EMERGENCY

The 1985 thoroughbred breeding season is approaching and ordinary administrative regulation will not be effective soon enough to protect the industry. It is imperative that this emergency regulation be adopted to protect the industry. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor  
DAVID E. BOSWELL, Commissioner

STATE BOARD OF AGRICULTURE  
KENTUCKY DEPARTMENT OF AGRICULTURE

302 KAR 20:180E. Restrictions equine viral arteritis.

RELATES TO: KRS 257.020, 257.030  
PURSUANT TO: KRS 257.030  
EFFECTIVE: January 30, 1985  
NECESSITY AND FUNCTION: To protect the thoroughbred industry from the spread of Equine Viral Arteritis within the borders of the Commonwealth of Kentucky and to control the disease in the Commonwealth.

Section 1. Definitions. As used in this regulation unless the context clearly requires otherwise:

- (1) "EVA" means Equine Viral Arteritis a communicable disease in livestock;
- (2) "Vaccinated" or "Vaccination" means vaccinated with equine modified live virus

vaccine;

(3) "Sero Positive" horse means the horse has reacted positive to a blood test for EVA;

(4) "Sero Negative" horse means the horse has reacted negatively to a blood test for EVA;

(5) "Book or Booking" means the contracting of mares to breed to stallions and/or the scheduling of mares to breed to stallions;

(6) "Chief Livestock Sanitary Official" means the State Veterinarian of the Commonwealth of Kentucky;

(7) "Cover" means the act of breeding a stallion to a mare;

(8) "Shedder or Shedding" means equine that has the EVA organism in the body that is capable of being transmitted to other animals; and

(9) "Identified or Identification" of equine means identification by breed, color, age, sex, tattoo and markings.

Section 2. Sero Positive Stallions. Sero positive stallions shall be handled in the following manner:

(1) All thoroughbred stallions known to be shedding EVA shall not be permitted to breed until the Chief Livestock Sanitary Official determines that the stallion does not pose a threat of EVA spread. In determining whether a shedder poses a threat of disease spread the Chief Livestock Sanitary Official shall consider whether the farm where the shedder is located can comply in all respects with the restrictions for breeding shedders found in subsection (1)(b) of this section.

(a) Shedding stallions shall be housed and

handled in a facility apart from nonshedding stallions;

(b) When the Chief Livestock Sanitary Official determines that a shedding stallion can breed the following control measures shall apply:

1. Owners and/or agents of mares booking or seeking to book to known shedding stallions shall be notified in writing by the owner and/or agent of the stallion as to the classification of the stallion as a shedder at the time of booking and copy of written notification sent to the Chief Livestock Sanitary Official;

2. Shedding stallions shall be housed, handled and bred in a facility isolated from nonshedding stallions;

3. Shedding stallions shall be bred only to mares that have been vaccinated against EVA at least twenty-one (21) days prior to breeding or to mares that are sero positive from prior vaccination or exposure;

4. All mares bred to shedding stallions shall be returned to the farm of origin and isolated from all other equine for the remainder of the breeding season or shall be returned only to a premise where all animals on that premise are vaccinated a minimum of twenty-one (21) days prior to association with these mares; and

5. Mares bred to shedding stallions shall be returned to the farm of origin in a separate van or other mode of transportation. Upon returning to the farm of origin the van or other mode of transportation used to transport said mare shall be immediately cleaned and disinfected.

(2) Sero positive stallions disclosed in 1985 that were not tested sero negative prior to vaccination and those stallions known to have been associated with the transmission of EVA shall be handled as follows:

(a) It shall be the responsibility of the Chief Livestock Sanitary Official in cooperation with the stallion owner/manager to determine that such a stallion is not shedding EVA virus prior to the stallion being permitted to breed other than to test mares;

(b) The procedure for determining that a stallion is not a shedder is as follows:

1. Re-bleed the stallion and if confirmed as sero positive, breed the stallion a minimum of two (2) to four (4) days to each of two (2) sero negative test mares. These test mares shall be isolated from all other equine and blood tested on day fourteen (14) and twenty-eight (28) following the last cover.

2. If neither of the test mares shows symptoms of EVA and if each test mare remains sero negative following the twenty-eight (28) day test, the stallion shall be considered a nonshedder and allowed to breed.

a. All mares bred to these stallions must have a prebreeding blood test for EVA; and

b. Any sero negative mare subsequently bred to this stallion shall be blood tested at seven (7), fourteen (14), and twenty-eight (28) days post breeding.

3. If any test mare shows symptoms of the disease and/or if any mare sero converts the stallion shall be considered a shedder and shall be handled in accordance with subsection (1) of this section.

(c) Owners and/or agents of mares booking or seeking to book to sero positive stallions classified under subsection (2) of this section shall be notified in writing by the owner and/or agent of the stallion as to the classification

of the stallion at the time of booking and a copy of the written notification sent to the Chief Livestock Sanitary Official;

(3) Sero positive, vaccinated stallions never associated with the transmission of EVA must have been sero negative prior to vaccination and a statement presented by the owner and/or agent of the stallion and his veterinarian that the stallion had no known contact with EVA infected and/or exposed equine prior to vaccination nor during the twenty-one (21) days post vaccination.

Section 3. Stallions becoming infected during the breeding season shall immediately cease breeding and the Chief Livestock Sanitary Official immediately notified. All owners and/or agents having mares booked to that stallion or previously bred to that stallion shall be immediately notified in writing by the owner and/or agent of the stallion and a copy of written notification set to the Chief Livestock Sanitary Official. The infected stallion shall be classified as a shedder and shall be handled accordingly. The stallion may be subsequently determined by the Chief Livestock Sanitary Official to be a nonshedder by test breeding in accordance with Section 2(2)(b) of this regulation.

Section 4. Equine vaccinated against EVA. Equine vaccinated against EVA must have blood drawn for EVA testing prior to vaccination. Vaccination must be approved by the Chief Livestock Sanitary Official prior to vaccination and must be reported to the Chief Livestock Sanitary Official within seven (7) days of the vaccination. Stallions vaccinated shall not be exposed to infected animals nor used for breeding for twenty-eight (28) days following vaccination. All equine vaccinated against EVA shall be properly identified.

Section 5. Mares that were clinically ill. Mares that were clinically ill with EVA or mares that were bred to shedding stallions in 1984 or any mare suspected of having EVA shall be blood tested. In 1985 this shall include but be limited to all mares bred after April 15, 1984 at Airdrie Stud Breeding Shed #2, Domino Stud after May 24, 1984 and Warnerton Farm after May 7, 1984. If found to be sero positive without proof of being sero negative prior to being vaccinated they shall be handled as follows:

(1) They shall only be bred to sero positive or vaccinated stallions;

(2) They shall be hauled in a separate van or other mode of transportation and shall be isolated from susceptible animals at the farm where breeding is to take place;

(3) These mares shall be bred last on any given day during the breeding season and the breeding shed shall be cleaned and disinfected after breeding;

(4) The van or other mode of transportation hauling such mare shall be cleaned and disinfected immediately upon returning to the farm of origin; and

(5) Mares in foal from 1984 breeding shall be isolated one month prior to foaling and they shall remain in isolation until released by the Chief Livestock Sanitary Official. At foaling, or following abortion, appropriate samples should be taken from the mare and foal to evaluate the possibility of their shedding EVA



virus.

Section 6. The Chief Livestock Sanitary Official may take such steps in addition to those outlined in this regulation as are reasonably necessary for the prevention and control of EVA in the equine population which shall include but not be limited to the isolation of all thoroughbreds and equine associated with them, thought to present the potential for EVA spread in the Commonwealth of Kentucky.

Section 7. All thoroughbred stallions and teaser shall be blood tested for EVA prior to the 1985 breeding season.

Section 8. Nurse mares shall be sero negative and/or properly vaccinated in accordance with Section 4 of this regulation and/or isolated on the thoroughbred farm.

Section 9. All newly acquired teasers shall be sero negative and/or properly vaccinated in accordance with Section 4 of this regulation.

Section 10. If any test mare after test breeding shows symptoms of the disease and/or if any mare sero converts the test mare shall be isolated from all other equine for the remainder of the breeding season.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: January 30, 1985

FILED WITH LRC: January 30, 1985 at 1 p.m.

#### STATEMENT OF EMERGENCY

KRS 161.030 requires, effective January 1, 1985, that all new teachers, including out-of-state teachers with less than five years' experience, successfully complete appropriate written tests prior to initial certification in Kentucky. The tests are to measure communication skill, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The State Board of Education is charged with selecting the tests and determining the cut-off scores, but it has been unable to do such in the vocational fields until now because of the necessity for the Department of Education to actually develop, field test, and validate several tests in the various vocational fields. Nevertheless, the designated vocational tests need to be in place with the effective date of the applicable legislation. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor  
ALICE McDONALD, Superintendent of Public Instruction

#### EDUCATION AND HUMANITIES CABINET Department of Education Office of Vocational Education

704 KAR 20:310E. Written Examination and Internship Prerequisites for Vocational Teachers.

RELATES TO: KRS 161.030

PURSUANT TO: KRS 156.070, 161.030

EFFECTIVE: January 15, 1985

NECESSITY AND FUNCTION: KRS 161.030 requires that, effective January 1, 1985, all new teachers, including out-of-state teachers with less than five years' experience, successfully complete appropriate written tests prior to initial certification in Kentucky and serve a one (1) year internship. The tests are to measure communication skills, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The State Board of Education is charged with selecting the tests; determining minimum acceptable levels of achievement on each test; establishing a reasonable fee related to the cost of administration of the tests, such fees to be paid by the teacher applicants; and establishing procedures for persons having less than minimum levels of performance on any test to repeat that test and be informed of strengths and weaknesses in performance areas. This regulation implements such duties relative to teacher testing and internship for vocational teachers as specified in 704 KAR 20:305, Section 1(3).

Section 1. All new industrial education, health and personal service occupation, public service teacher applicants, and other applicants for vocational teacher certificates both with and without a teacher preparation degree; and out-of-state applicants for vocational certification with less than five (5) years of teaching experience shall successfully complete the appropriate written tests prior to initial Kentucky certification. Each applicant without a teacher preparation degree shall successfully complete the Comprehensive Test of Basic Skills (CTBS) for communication skills and general knowledge and the Office of Vocational Education's Teacher Aptitude Test (TAT). Each applicant with a teacher preparation degree shall successfully complete the National Teachers's Examination (NTE) Core Battery as specified in 704 KAR 20:305, Section 2(1). All applicants shall take a specialty test in the occupational area for which certification is to be granted. Specialty tests are identified as follows:

(1) Industrial education - National Occupational Competency Testing Institute's (NOCTI) Teacher Occupational Competency Test (TOCT) if one corresponding to the teaching specialty is available; or if not, the Office of Vocational Education, Department of Education, developed test corresponding to the teaching specialty.

(2) Health occupations - the appropriate state or national examination, where one exists; or, if not, the Office of Vocational Education, Department of Education, developed test corresponding to the teaching specialty.

(3) Public service - the corresponding Office of Vocational Education, Department of

Education, developed test.

Section 2. In order to satisfy the testing prerequisites for teacher certification, and before an initial certificate is granted, each applicant shall make the following minimum passing score on each of the following tests:

- (1) The Comprehensive Test of Basic Skills:
  - (a) Communication Skills - 742;
  - (b) General Knowledge - 720;
- (2) The Teacher Aptitude Test - 650;
- (3) Specialty Area Tests for Industrial Education:
  - (a) Air Conditioning - NOCTI - Air Conditioning Refrigeration - 548;
  - (b) Aircraft Mechanics - NOCTI - Airframe & Power Plant - 578;
  - (c) Appliance Repair - NOCTI - Major Appliance Repair - 531;
  - (d) Auto Body Repair - NOCTI - Auto Body Repair - 613;
  - (e) Auto Mechanics - NOCTI - Auto Mechanics - 554;
  - (f) Auto Parts - State Developed - Auto Parts - 490;
  - (g) Building Maintenance - NOCTI - Building Trades Maintenance - 548;
  - (h) Cabinetmaking - NOCTI - Cabinetmaking and Millwork - 523;
  - (i) Carpentry - NOCTI - Carpentry - 597;
  - (j) Civil & Highway Technology - NOCTI - Civil Technology - 392;
  - (k) Commercial Art - NOCTI - Commercial Art - 518;
  - (l) Commercial Sewing - NOCTI - Power Sewing - 600;
  - (m) Diesel Mechanics - NOCTI - Diesel Mechanics - 509;
  - (n) Drafting - NOCTI - Machine Drafting - 564;
  - (o) Electricity - NOCTI - Industrial Electrician - 538;
  - (p) Electronics - NOCTI - Electronics Technology - 498;
  - (q) General Miner - State Developed - General Miner - 520;
  - (r) Graphic Arts - NOCTI - Printing - Offset - 495;
  - (s) Heavy Equipment Operator - State Developed - Heavy Equipment Operator - 510;
  - (t) Heavy Equipment Repair - NOCTI - Diesel Mechanics - 509;
  - (u) Industrial Machinery Maintenance - State Developed - Industrial Machinery Maintenance - 480;
  - (v) Instrumentation - NOCTI - Electronics Technology - 498;
  - (w) Interior Finishing - State Developed - Interior Finishing - 460;
  - (x) Machine Shop - NOCTI - Machine Trades - 525;
  - (y) Masonry - NOCTI - Masonry - 556;
  - (z) Meat Cutting - State Developed - Meat Cutting - 580;
  - (aa) Mine Maintenance Technology - State Developed - Mine Maintenance Technology - 560;
  - (bb) Mine Equipment Operator - State Developed - Mine Equipment Operator - 570;
  - (cc) Office Machine Repair - NOCTI - Electronics Technology - 498;
  - (dd) Plumbing - NOCTI - Plumbing - 501;
  - (ee) Radio & TV Production - State Developed - Radio & TV Production - 440;
  - (ff) Radio & TV Repair - NOCTI - Radio & TV Repair - 629;

- (gg) Sheet Metal - NOCTI - Sheet Metal - 596;
- (hh) Small Engine Repair - NOCTI - Small Engine Repair - 560;
- (ii) Tailoring - NOCTI - Textile Production/Fabrication - 557;
- (jj) Tool and Die - NOCTI - Tool and Die Maker - 369;
- (kk) Truck Mechanics - NOCTI - Diesel Mechanics - 509;
- (ll) Upholstery - State Developed - Upholstery - 520;
- (mm) Welding - NOCTI - Welding - 510;
- (4) Specialty Area Test for Health and Personal Service Occupation:
  - (a) Barbering - The Kentucky Board of Barbering Examination and Barbering Instructors' License;
  - (b) Bio-Medical Equipment Technician - Board of Examiners for Bio-Medical Equipment Technicians operating under the Certification Commission Examination and Bio-Medical Equipment Technician;
  - (c) Cosmetology - Kentucky Board of Hairdressers and Cosmetologists Instructors' License;
  - (d) Dental Assisting - Dental Assistants' National Board Examination and Dental Assistants' Certification or American Dental Association National Board Examination and Dental Hygiene Licensure coupled with State or Regional Board of Dentistry Examination and Dental Hygiene Licensure;
  - (e) Health Services - The National Council of Licensure Examination Administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky;
  - (f) Medical Assisting - The National Council of Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky or American Association of Medical Assistants' Examination and Medical Assistant Certification;
  - (g) Medical Laboratory Technician - American Society of Clinical Pathologist Certification Examination and Medical Technologist Registration or National Certification Agency Certification Examination and Clinical Laboratory Scientist Certification;
  - (h) Medical Secretary - State Developed - Medical Secretary, with a minimum score of 580;
  - (i) Practical Nursing - The National Council Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky;
  - (j) Radiologic Technology - American Registry of Radiologic Technologists' Certification Examination and Radiographers' Registration;
  - (k) Respiratory Therapy Technology - National Board for Respiratory Care;
  - (l) Surgical Technology - The National Council Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky or Association of Surgical Technologists' Examination under the direction of the Liaison council on Certification and Surgical Technologists' Certification;
- (5) Specialty Area Test for Public Service:
  - (a) Public Service - State Developed - Public Service, with a minimum score of 630; and
  - (6) Specialty Area Test: Other
    - (a) Commercial Foods - NOCTI - Quantity Foods, with a minimum score of 618.

Section 3. Teacher applicants in new

vocational programs for which no appropriate specialty test is yet available shall not be required to take a specialty test, except for research and validation purposes. After the new program has been piloted and fully implemented, any new teacher applicant will be required to successfully take a designated specialty test.

Section 4. Applicants for initial certification may take the written tests on any of the dates established by the Department of Education, Office of Vocational Education, with such tests to be administered at least twice monthly. Public announcement of testing dates and locations shall be issued sufficiently in advance of testing dates to permit advance registration as required by the Office of Vocational Education. It shall be the responsibility of each applicant to seek information regarding the dates and location of the tests and to make application to the Office of Vocational Education for the appropriate tests prior to the deadlines established and sufficiently in advance of anticipated employment. Applicants must authorize test results to be forwarded to the Teacher Education and Certification Division, Department of Education.

Section 5. Applicants shall pay an examination fee of fifty (50) dollars directly to the testing agency for the four (4) tests. In the event that fewer than the four (4) tests are to be taken, the fee schedule shall be as follows: (1) CTBS - Communication Skills, ten (10) dollars; (2) CTBS - General Knowledge, ten (10) dollars; (3) Teacher Aptitude Test, ten (10) dollars; (4) specialty area tests, twenty (20) dollars.

Section 6. Applicants who fail to achieve at least the minimum score on one (1) or more of the test(s) shall be permitted to retake the test or those tests no more than two (2) additional times, and all retakes must meet the regularly scheduled testing dates. However, initial certification will not be granted until acceptable scores are achieved in each of the required areas.

Section 7. The Department of Education shall collect such data and conduct such analyses of the impact of these tests as to permit a review of these regulations on at least a biennial basis.

Section 8. All applicants for Kentucky vocational teaching certificates who successfully complete the required written tests shall serve a one (1) year internship. The teacher/intern shall be a full-time employee with supervision, assistance, and assessment during the one (1) year internship. The Office of Vocational Education shall administer the internship program and shall follow the requirements established by the State Board of Education:

(1) A beginning teacher committee meeting the requirements of KRS 161.030 shall be identified by the Office of Vocational Education and shall consist of:

- (a) A resource teacher who is certified in the same occupational area as the teacher/intern;
- (b) The school principal where the internship

is being served; and

(c) An occupational area teacher educator from a state-approved teacher training institution or, if the teacher training institution is unable to provide a member, an occupational specialist within the Office of Vocational Education.

(2) Internships for vocational teachers in area centers and state vocational-technical schools shall be administered by the Office of Vocational Education, Department of Education.

ALICE McDONALD, Superintendent of Public Instruction

APPROVED BY AGENCY: January 3, 1985

FILED WITH LRC: January 15, 1985 at 4 p.m.

#### STATEMENT OF EMERGENCY

On August 1, 1983, former Governor John Y. Brown, Jr., signed Executive Order Number 83-660. This order transferred from the Cabinet for Human Resources to the Kentucky Board of Nursing sole responsibility for the supervision and licensing of nurse midwives. However, the 1984 General Assembly failed to pass a bill that confirmed the Executive Order.

All nurse-midwife permits expired on December 31, 1984. This emergency regulation is needed in order for the Cabinet for Human Resources to issue new permits or renew existing permits until this matter is resolved.

This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN JR. Secretary

#### CABINET FOR HUMAN RESOURCES Department for Health Services Division of Maternal and Child Health

#### 902 KAR 4:015E. Nurse Midwifery.

RELATES TO: KRS 211.090, 211.180

PURSUANT TO: KRS 194.050, 211.090, 211.180

EFFECTIVE: February 12, 1985

NECESSITY AND FUNCTION: KRS 211.180 authorizes the Cabinet for Human Resources to regulate the practice of midwifery in Kentucky, including the issuance of permits and the supervision of persons who practice midwifery. This regulation recognizes the advanced education, training and experience of the nurse midwife and the increasing role of the nurse midwife in the delivery of midwifery services in this state. This regulation is readopted by the Cabinet for Human Resources due to the failure of the 1984 General Assembly to confirm Executive Order 83-660, which had transferred the function of regulating nurse midwifery to the Kentucky Board of Nursing.

Section 1. Practice of Nurse Midwifery Defined. The practice of nurse midwifery embodies the practice of professional nursing and the extension of that practice into the area of care and management of the essentially healthy woman and newborn during the childbearing processes.

Section 2. Practice of Nurse Midwifery Without

Permit Prohibited; Exception. No person shall engage or attempt to engage in the practice of nurse midwifery within this state, unless such person holds a valid and effective permit issued as herein provided. Persons licensed by the Kentucky Board of Nursing as an Advanced Registered Nurse Practitioner ("ARNP" - nurse midwife) are exempt from the provisions of this regulation.

Section 3. Nurse Midwife Permits. (1) Applications for permits to practice nurse midwifery may be obtained from the Cabinet for Human Resources, Department for Health Services, Division of Maternal and Child Health, 275 East Main Street, Frankfort, Kentucky 40621.

(2) The Cabinet for Human Resources may issue a nurse midwife permit to any person who is:

(a) Licensed as a registered nurse in accordance with KRS Chapter 314;

(b) A graduate of a program in nurse midwifery approved by the American College of Nurse Midwives and by the the Cabinet for Human Resources; and

(c) Nationally certified by the American College of Nurse Midwives to practice nurse midwifery.

Section 4. Nurse Midwife Practice Standards. All nurse midwives shall comply with the following practice standards and requirements. In such practice, the nurse midwife shall:

(1) Render service to the mother and baby throughout the maternity cycle in such a way as to make a maximum contribution to their safety, health and welfare, including the control and prevention of complicating conditions and enhancing the childbearing experience;

(2) Attempt to maintain the integrity of the mother and her family and encourage their participation in plans for her maternity care;

(3) Not work as an independent practitioner but function within the boundaries of her professional competencies within the framework of medically approved protocols;

(4) Work in collaboration with the physician and other health professionals;

(5) Perform nurse midwifery services only under terms or conditions which permit the exercise of nurse midwifery judgment and skill and encourage a high quality of nurse midwifery care;

(6) Strive continually to improve knowledge and skills and to make available to patients and co-workers the benefits of professional attainments;

(7) Understand, utilize and encourage the contributions of other professional disciplines and community resources to maternity care; and

(8) Demonstrate interest in and accept responsibility for participating in activities designed to improve the health and well-being of the family and the community.

Section 5. Permit Renewals. Nurse midwife permits issued under this regulation shall expire on December 31st every two (2) years but may, on proper application, be renewed provided the applicant is in full compliance with the provisions of this regulation.

Section 6. Denial, Revocation or Suspension of Permit. The Cabinet for Human Resources may deny, revoke, probate, suspend or refuse to

renew the permit of any midwife who has:

(1) Had a license as a registered nurse revoked;

(2) Been convicted of a felony involving moral turpitude;

(3) Become habitually intemperate or is addicted to the use of habit-forming drugs;

(4) Knowingly made or caused to be made or abetted in the making of any false statement in procuring or attempting to procure a permit or in the making of a birth or death certificate;

(5) Developed such physical or mental disabilities that continued practice would be dangerous to the public or patients;

(6) Engaged in dishonorable, unprofessional conduct of a character likely to deceive or defraud the public; or

(7) Violated any of the provisions of this regulation or any other regulation of the Cabinet for Human Resources relating to the practice of nurse midwifery.

C. HERNANDEZ, M.D., M.P.H, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 12, 1985

FILED WITH LRC: February 12, 1985 at noon

#### STATEMENT OF EMERGENCY

The administrative body is required to implement this regulation or not have the authority to implement the income tax refund intercept program in conjunction with the Revenue Cabinet. In order to comply with KRS 131.560-595 which establishes the refund intercept program, the administrative body is required to have an established appeals and hearings process. The program provides another tool for the collection of debts owed to the Unemployment Insurance Trust Fund.

An ordinary regulation will not suffice in this instance since the implementation of the refund intercept program needs to occur immediately in order for the program to be effective in 1985, and no administrative regulation has been previously filed with respect to this subject matter. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

**CABINET FOR HUMAN RESOURCES**  
Department for Employment Services  
Division of Unemployment Insurance

903 KAR 5:150E. Determination defined.

RELATES TO: KRS 131.570(1), 341.410  
PURSUANT TO: KRS 13A.100, [13.082,] 194.050, 341.115

EFFECTIVE: January 21, 1985

NECESSITY AND FUNCTION: This regulation defines the term "determination" as used by the division.

Section 1. Any decision rendered by the Division of [for] Unemployment Insurance or its duly authorized representatives in writing affecting a worker's claim for unemployment benefits or the charges to an employer's reserve

account for benefits paid or payable, or notice of income tax refund intercept issued by the Revenue Cabinet shall be a "determination."

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 9, 1985

FILED WITH LRC: January 21, 1985 at 2 p.m.

#### STATEMENT OF EMERGENCY

The administrative body is required to implement this regulation or not have the authority to implement the income tax refund intercept program in conjunction with the Revenue Cabinet. In order to comply with KRS 131.560-595 which establishes the refund intercept program, the administrative body is required to have an established appeals and hearings process. The program provides another tool for the collection of debts owed to the Unemployment Insurance Trust Fund.

An ordinary regulation will not suffice in this instance since the implementation of the refund intercept program needs to occur immediately in order for the program to be effective in 1985, and no administrative regulation has been previously filed with respect to this subject matter. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance

903 KAR 5:280E. Appeals from notices of income tax refund intercept.

RELATES TO: KRS 131.570(1), 341.440, 341.450(2)  
PURSUANT TO: KRS 13A.100, 194.050, 341.115  
EFFECTIVE: January 21, 1985

NECESSITY AND FUNCTION: This regulation sets up the appeals process and general rules for the conduct of hearings regarding the intercept of individual income tax refunds in full or partial satisfaction of outstanding benefit overpayments.

Section 1. Appeals to Referee. (1) The presentation of an appeal to a referee:

(a) Any debtor wishing to appeal to a referee from a notice of income tax refund intercept issued by the Revenue Cabinet may do so by filing with the Division of Unemployment Insurance or its authorized representative within thirty (30) days of the date of the notice a written statement clearly indicating the party's desire to have a hearing.

(b) An appeal to a referee shall be considered filed at the time it is delivered to a representative of the division or deposited in the mail as indicated by the postmark thereon.

(2) Notification of Hearings: All hearings shall be scheduled promptly and notices thereof shall be mailed to all interested parties at least seven (7) days before the date of hearing specifying the time and place of hearing, except that, the referee may, when the exigencies of the situation in his judgement require, set a

case for hearing before the expiration of seven (7) days, only then, however, upon agreement of all interested parties.

Disqualification of Referees: No referee shall participate in the hearing of an appeal in which he has an interest. Challenges to the interest of any referee shall be heard and decided by the commission.

#### (4) Hearing of Appeals:

(a) The debtor and any other party to the appeal may present such evidence as may be pertinent and may question the opposite party and his witnesses. The referee shall, if he deems it necessary to secure full information on the issues, examine each party who appears and his witnesses. The referee may take any additional evidence which he deems necessary, but, if additional evidence is taken, all interested parties shall be afforded an opportunity of examining and refuting the same.

(b) The parties to an appeal, with the consent of the referee, may stipulate the facts involved, in writing. The referee may decide the appeal on the basis of such stipulation or may schedule a hearing and take such further evidence as he deems necessary.

(c) The hearing shall be scheduled and held at a place where the debtor can attend without undue expense or inconvenience, giving consideration to the debtor's place of residence.

(d) The hearing may be conducted via teleconference if the residence of the debtor is not in close geographic proximity, or if other circumstances warrant.

(e) The referee may in his discretion grant a continuance of a hearing in order to secure necessary evidence.

(f) Parties to a teleconference hearing who wish to introduce documents or written materials into the record at the referee hearing, must immediately mail copies of such documents to the referee, and to the opposing party. Failure to provide both the referee and the opposing party with copies of such evidence may result in its being excluded from the record.

#### (5) Decisions:

(a) After the hearing is concluded the referee shall promptly set forth in writing his finding of facts on the issues involved, his decision and the reason therefor; provided, however, that if the appellant fails to appear and prosecute his appeal, the referee may summarily affirm the notice of income tax refund intercept.

(b) Copies of the decision shall be mailed to the debtor and other parties to the appeal, and a copy shall be retained in the division's files.

(c) The mechanical recording of the hearing shall be retained in the division's files pending further appeal. If no such appeal is initiated, the recording shall be destroyed sixty (60) days from the date the decision is mailed.

(d) Any referee decision may be superseded and amended after being released in order to correct obvious technical errors or omissions. Such corrected decision shall have the same appeal rights as the decision which it amends or corrects.

Section 2. Appeals to the Commission. (1) Presentation of an appeal to the commission:

(a) Any debtor wishing to appeal to the commission from a decision of a referee may make written application with the commission, the

division or its authorized representative for leave to appeal in any form which clearly indicates the party's intention to appeal. A notice of such application for leave to appeal shall be mailed by the commission to other interested parties.

(b) An application for leave to appeal shall be considered initiated and filed at the time it is delivered to an authorized representative of the commission or the division or deposited in the mail, as indicated by the postmark thereon.

(c) The commission may grant or deny the application for leave to appeal without a hearing or may notify the parties to appear at a specified place and time for argument on the application.

(2) Hearing of appeals:

(a) Except in instances where the commission orders cases removed to it from a referee, all appeals to the commission may be heard upon the records of the division and the evidence and exhibits introduced before the referee. In the hearing of an appeal on the record, the parties may, if they desire, present written arguments and, at the commission's discretion be allowed to present oral arguments. The party presenting an appeal to the commission, (appellant) shall have ten (10) days from the date of mailing of the commission's notification of appeal receipt within which to file written argument. The appellee shall have seven (7) days thereafter within which to file response. When copies of tape recorded testimony are requested, the requesting party shall have a period of ten (10) days from the date of mailing of the requested tapes by the commission within which to file written argument. Opposing party's response shall be due seven (7) days thereafter. Written argument shall be considered filed when delivered to a representative of the commission or division, or deposited in the mail, as indicated by the postmark thereon. The commission may extend the time for filing written argument upon a showing of good cause by either party to the appeal. Written argument shall be considered filed when delivered to a representative of the commission, or deposited in the mail, as indicated by the postmark thereon.

(b) The commission may, however, direct the taking of additional evidence before it, if needed, in order to determine the appeal. If, in the discretion of the commission, additional evidence is necessary to determine the appeal, the parties shall be notified of the time and place such evidence shall be taken at least seven (7) days prior to the date on which the evidence will be taken.

(c) The commission, at its discretion, may return any case or issue to a referee for the taking of such additional evidence as it desires. The referee shall take the testimony in the manner prescribed for the hearing of appeals before referees and shall thereupon return the record to the commission for its decision thereon.

(3) The hearing of appeals by the commission on cases ordered removed to it from any referee: The procedure on any case before a referee, ordered by the commission to be removed to it, shall be presented, heard and decided by the entire commission in the manner as prescribed for the hearing of other cases before the referee.

(4) The determination of appeals before the commission:

(a) Following the conclusion of a hearing the commission shall promptly announce its decision, which may be either an affirmation of the decision of the referee, or a separate finding of facts, decision and reasons therefor. The decision shall be in writing and shall be signed by the members of the commission who heard the appeal. At the discretion of the commission, its decisions may be designated as representing precedent for future cases of similar circumstance. Decisions designated as precedent shall be binding on all lower levels of determination.

(b) If a decision of the commission is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision of the majority setting forth the reasons why it fails to agree with the majority.

(c) Copies of the decision shall be mailed to all interested parties.

(5) Reconsideration:

(a) A party adversely affected by a decision of the Kentucky Unemployment Insurance Commission may, within twenty (20) days of the mailing date of such decision, file application for reconsideration of the commission's decision. The commission may grant or deny the application for reconsideration. An application for reconsideration shall be considered initiated and filed at the time it is delivered to an authorized representative of the commission or division, or deposited in the mail as indicated by the postmark thereon. The commission shall respond to such requests for reconsideration by mail, within three (3) working days after receipt.

(b) An application for reconsideration of a decision of the commission shall not stay the running of the time for appeal to the circuit court, if such application is denied.

Section 3. General Rules for Both Appeal Stages. (1) Issuance of subpoenas: Subpoenas requested to compel the attendance of witnesses and/or the production of records for any hearing of an appeal shall be issued only on a sworn statement by the party applying for the issuance thereof setting forth the substance of the anticipated proof to be obtained and the need therefor.

(2) Appeal record: All reports, forms, letters, transcripts, communications, statements, determinations, decisions, orders, and other matters, written or oral, from the debtor or personnel or representatives of the division which have been written, sent, or made in connection with an appealed claim shall constitute the record with respect to such claim.

(3) Supplying information from the records of the division of unemployment insurance: Information from the records of the division shall be furnished to an interested party or his representative to the extent necessary for the proper presentation of the party's case, only upon written request therefor. All requests for such information shall state, as clearly as possible, the nature of the information desired. Nothing in this regulation shall prevent an interested party or his representative from examining a record in the hands of a referee at a hearing.

(4) Conduct of hearings: All hearings shall be

conducted informally without regard to common law, statutory or technical rules or procedure and in such manner as to determine the substantial rights of the parties. The parties and their witnesses shall testify under oath or affirmation. All issues relevant to the appeal shall be considered and passed upon. However, those issues shall be limited to: the amount of the debt owed; whether or not the debt is final due and owing; and the existence of any encumbrance concerning the method of debt collection.

(5) Reopening hearings: Any party to an appeal who fails to appear at the scheduled hearing may, within seven (7) days from the date thereof, request a rehearing. The request shall be granted if such party has shown good cause for his failure to appear. The request shall be in writing and shall set forth the reasons for his failure to attend the scheduled hearing. The request shall be mailed or delivered to the office where the appeal was filed or the Appeals Branch, the Division of Unemployment Insurance, Frankfort, Kentucky. Upon the rehearing being granted, notice of the time and place of the reopened hearing shall be given to the parties or to their representatives.

(6) Providing of testimony (tapes) to interested parties:

(a) Parties or their authorized representatives may secure a duplicate of the recording of testimony made at the referee hearing by contacting the Kentucky Unemployment Insurance Commission at the address listed on the referee decision.

(b) There shall be no charge for this service, however, parties should forward blank cassette tapes with their request in numbers sufficient to record the requested testimony.

(c) All requests under this subsection must be filed within ten (10) days of the mailing date of the notice of appeal receipt.

Section 7. Service of Process: The Branch Manager, Kentucky Unemployment Insurance Commission, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621, is hereby designated, by the Kentucky Unemployment Insurance Commission, as the person for receipt of Service of Process (Summons) in Civil Actions filed under the provisions of KRS 341.450(2).

JAMES P. DANIELS, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 9, 1985

FILED WITH LRC: January 21, 1985 at 2 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice since no administrative regulation has been filed with respect to this subject matter previously. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

904 KAR 1:250E. Incorporation by reference of materials relating to the Medical Assistance Program.

RELATES TO: KRS 194.030(6), 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 21, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Medical Assistance Program and is applicable for both the categorically and medically needy.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Medical Assistance Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Material. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal Medicaid regulations at 42 CFR Parts 430-456, and interim final regulations at 42 CFR Parts 430-456, effective January 1, 1985 [May 16, 1984]. The regulations contain federal supplementary policies, interpretations and implementing instructions for the Medical Assistance Program as authorized by Title XIX of the Social Security Act.

(2) Federal "State Medicaid Manual," effective January 1, 1985 [October 1 1984]. The "State Medicaid Manual" contains federal interpretations and clarifications of policy relating to implementation of the Medical Assistance Program.

(3) Federal action transmittals issued by the Health Care Financing Administration as follows: HCFA-AT-79-63, 79-72, 79-98, 80-9, 80-59, 81-23, 81-33, 81-35, 82-1, 82-2, 82-20, 83-1, 83-4,

83-7, 83-8, 83-11, 84-1, 84-2, 84-4, 84-5, [and] 84-10, and 84-16, effective January 1, 1985 [October 1, 1984]. Action transmittals contain federal instructions relating to implementation of the Medical Assistance Program.

(4) Federal transmittal notices issued by the Health Care Financing Administration as follows: DQC-1-82, 10-82; DPO-76-81, 77-81, 78-81; MCD-46-81, 48-81, 55-81, 61-81, 62-81, 64-81, 67-81, 82-81, 86-81, 87-81, 89-81, 92-81, 1-82, 2-82, 6-82, 7-82, 10-82, 14-82, 16-82, 17-82, 18-82, 19-82, 25-82, 26-82, 28-82, 30-82, 33-82, 34-82, 35-82, 38-82, 41-82, 42-82, 50-82, 52-82, 2-83, 5-83, 9-83, 11-83, 12-83, 13-83, 14-83, 15-83, 19-83, 20-83, 26-83, 28-83, 29-83, 30-83, 35-83, 39-83, 40-83, 42-83, 1-84, 6-84, 7-84, 8-84, 9-84, 11-84, 13-84, 14-84, 15-84, 16-84, 18-84, 20-84, 23-84, 24-84, 25-84, 26-84, 27-84, 29-84, 34-84, [and] 35-84, 36-84, 39-84, and 48-84, effective January 1, 1985 [October 1, 1984]. Transmittal notices contain federal clarifications of policy relating to implementation of the Medical Assistance Program.

(5) Medicare and Medicaid Guide, Volumes I, II, III, and IV, as published by the Commerce Clearing House, Inc., with the following related new developments transfer binders: 1981-1, 1981-2, 1982, 1983-1, 1983-2, and 1984-1, effective January 1, 1985 [October 1, 1984]. The Medicare and Medicaid Guide contains reprints of federal laws and regulations relating to the Medicare and Medicaid programs; reprints of Medicare/Medicaid related court decisions; Medicare principles of reimbursement; summaries of state plan characteristics; and other items of general information relating to the Medicare and Medicaid programs. Although the cabinet is bound by federal Medicaid law and regulations in the implementation of the Medical Assistance Program, the Guide is used principally as supplementary material for reimbursement issues in situations where the cabinet's vendor reimbursement system uses the Medicare cost principles in unaddressed areas.

(6) State Medicaid Program policies and procedures manuals issued by the cabinet, and which contain benefit descriptions and operating instructions used by agency staff and participating vendors in the provision of, and billing for, Medical Assistance benefits provided eligible program recipients, as follows:

- (a) Home and Community Based Services Waiver Project Adult Day Health Care Services, effective May 16, 1984;
- (b) Alternative Intermediate Services/Mental Retardation Project, effective October 1, 1984;
- (c) Birthing Center Services, effective January 1, 1985 [May 16, 1984];
- (d) Community Mental Health Benefits, effective May 16, 1984;
- (e) Dental Benefits, effective May 16, 1984;
- (f) Early and Periodic Screening, Diagnosis and Treatment Benefits, effective May 16, 1984;
- (g) Family Planning Benefits, effective May 16, 1984;
- (h) Hearing Services Benefits, effective January 1, 1985 [May 16, 1984];
- (i) Home and Community Based Services Waiver Project, effective May 16, 1984;
- (j) Home Health Benefits, effective May 16, 1984;
- (k) Hospital Services Benefits, effective January 1, 1985 [May 16, 1984];
- (l) Independent Laboratory Services Benefits,

- effective January 1, 1985 [May 16, 1984];
- (m) Intermediate Care Facility Benefits, effective January 1, 1985 [May 16, 1984];
- (n) Mental Hospital Services Benefits, effective May 16, 1984;
- (o) Nurse Anesthetist Services, effective May 16, 1984;
- (p) Nurse Midwife, effective May 16, 1984;
- (q) Pharmacy Benefits, effective January 1, 1985 [October 1, 1984];
- (r) Physician Benefits, effective January 1, 1985 [May 16, 1984];
- (s) Primary Care Benefits, effective May 16, 1984;
- (t) Rural Health Clinic Benefits, effective May 16, 1984;
- (u) Skilled Nursing Facility Benefits, effective January 1, 1985 [May 16, 1984];
- (v) Ambulance Transportation Benefits, effective May 16, 1984, as revised; [and]
- (w) Vision Services Benefits, effective May 16, 1984; [.]
- (x) Pharmacy letters, effective January 1, 1985; and
- (y) Podiatry Letter #A-3, effective January 1, 1985.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 15, 1985

FILED WITH LRC: January 21, 1985 at 2 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

904 KAR 2:140E. Supplementary policies for programs administered by the Department for Social Insurance.

RELATES TO: KRS 194.030(6), Chapter 205

PURSUANT TO: KRS 194.050

EFFECTIVE: January 21, 1985

NECESSITY AND FUNCTION: KRS 194.010 designates the Cabinet for Human Resources as the primary state agency responsible for the development and operation of assistance programs, and KRS 194.050 empowers the secretary of the Cabinet for Human Resources to adopt, administer and



enforce regulations sufficient to operate the programs and fulfill the responsibilities vested in the cabinet. This regulation states the general policy of the cabinet with regard to program materials incorporated into regulatory form by reference for use by the Department for Social Insurance, and incorporates by reference materials related to the programs of aid to families with dependent children, medical assistance, home energy assistance, refugee assistance, food stamps, child support enforcement, state supplemental payments for the aged, blind or disabled, disability determination, and collections which are essential for the implementation of those programs.

Section 1. General Policy Relating to Program Materials Incorporated by Reference. (1) Kentucky administrative regulations relating to program matters reflect the policy of the cabinet with regard to the issues addressed in the regulation.

(2) Materials incorporated by reference shall be construed and interpreted in such a manner as to be consistent with the intent of agency policy as reflected in Kentucky administrative regulations, and shall be considered the agency statement of policy with regard to issues not otherwise addressed in Kentucky administrative regulations.

Section 2. Incorporation by Reference. The following listed materials are hereby incorporated by reference, effective on the date shown.

(1) Department for Social Insurance Manual of Operations, effective January 1, 1985 [October 1, 1984]. The Manual of Operations provides operating instructions, procedural detail, and technical clarification for use of the department's field staff in implementing programs, under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; and medical assistance.

(2) Department for Social Insurance Manual of Forms, effective January 1, 1985 [October 1, 1984]. The Manual of Forms provides forms with instructions for completion, usage, distribution and files maintenance for use of the department's field staff in implementing programs under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; medical assistance; and the food stamp program.

(3) Federal regulations at 45 CFR Parts 16, 74, and 95, effective May 16, 1984. Part 16, Procedures of the Departmental Grant Appeals Board, provides requirements and procedures applicable to resolution of certain disputes arising under several assistance programs funded by the United States Department of Health and Human Services. Part 74, Administration of Grants, establishes uniform requirements for the administration of grants provided under the authority of the United States Department of Health and Human Services, and principles for determining costs applicable to activities assisted by Department of Health and Human Services grants. Part 95, General Administration

- Grant Programs (Public Assistance and Medical Assistance), establishes requirements of the United States Department of Health and Human Services for various administrative matters relating to grant programs, including time limits for states to file claims, cost allocation plans, and conditions for federal financial participation for automatic data processing equipment and services.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 11, 1985

FILED WITH LRC: January 21, 1985 at 2 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

904 KAR 2:150E. Incorporation by reference of materials relating to the Aid to Families with Dependent Children Program.

RELATES TO: KRS 194.030(6), 205.200, 205.220, 205.231

PURSUANT TO: KRS 194.050

EFFECTIVE: January 21, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Title IV-A of the Social Security Act, namely Aid to Families with Dependent Children, herein referred to as AFDC. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the AFDC program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Aid to Families with Dependent Children Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby

ADMINISTRATIVE REGISTER - 1252

incorporated by reference, effective on the date shown:

(1) Federal regulations at 45 CFR Parts 200-299, which set forth the federal requirements and guidelines for the administration of the Aid to Families with Dependent Children Program, effective January 1, 1985 [October 1, 1984]; and

(2) Federal action transmittals, which provide operating instructions, procedural detail and technical clarification for use by the department's staff in administering the Aid to Families with Dependent Children Program, as follows: SSA-AT-77-44, 78-13, 78-14, 78-16, 78-21, 78-27, 78-28, 78-38, 79-2, 79-4, 79-5, 79-7, 79-11, 79-14, 79-18, 79-22, 79-26, 79-29, 79-31, 79-32, 79-33, 79-35, 79-42, 79-44, 80-2, 80-3, 80-9, 80-11, 80-19, 80-22, 80-24, 80-29, 80-30, 80-36, 80-38, 80-42, 80-44, 80-45, 80-50, 81-2, 81-7, 81-8, 81-10, 81-11, 81-12, 81-15, 81-16, 81-17, 81-18, 81-23, 81-29, 81-31, 81-33, 81-34, 81-35, 81-36, 81-37, 82-1, 82-5, 82-6, 82-9, 82-11, 82-13, 82-15, 82-16, 82-17, 82-18, 82-19, 82-20, 82-28, 82-33, 82-34, 83-6, 83-7, 83-10, 83-11, 83-13, 83-14, 83-17, 83-18, 83-21, 83-22, 83-23, 83-25, 83-27, 84-2, 84-3, 84-5, 84-6, 84-7, 84-8, 84-9, 84-13, [and] 84-16, and 84-25, effective January 1, 1985 [October 1, 1984].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 10, 1985

FILED WITH LRC: January 21, 1985 at 2 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES  
Department for Social Insurance  
Division of Management and Development

904 KAR 2:170E. Incorporation by reference of materials relating to the Child Support Program.

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

EFFECTIVE: January 21, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS

205.710 to 205.800 and 205.992. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Child Support Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Child Support Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal child support regulations at 45 CFR Parts 300-399, which set forth the requirements and guidelines for the administration of the Child Support Program, effective October 1, 1984;

(2) Federal Office of Child Support Enforcement Action Transmittals, which provide federal program instructions for the implementation of the child support enforcement program in accordance with federal laws and regulations, as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-15, 83-18, and 84-05, effective October 1, 1984;

(3) Department for Social Insurance Child Support Manual of Procedures, which provides operational instructions and procedural detail for the implementation of the child support enforcement program, effective January 1, 1985 [October 1, 1984];

(4) Department for Social Insurance Child Support System Handbook, which provides systems and data processing instructions for the implementation of the child support enforcement program, effective May 16, 1984; and

(5) Department for Social Insurance Child Support Action Memorandums, which provide program clarifications, instructions, and procedural detail for the implementation of the child support enforcement program, as follows: DCSE-AM-82-07, 82-36, 82-53, 83-16, 83-21, 83-29, 83-30, 83-31, 83-36, 83-38, 83-39, 83-48, 84-10, [84-11,] 84-16, 84-18, 84-19, 84-20, [84-22,] 84-29, 84-34, [and] 84-36, and 84-41, effective January 1, 1985 [October 1, 1984].

Section 3. All documents included by reference herein may be reviewed during regular working hours at the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 10, 1985

FILED WITH LRC: January 21, 1985 at 2 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management & Development**  
**(Proposed Amendment)**

**904 KAR 3:035E. Certification process.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 194.050

EFFECTIVE: February 12, 1985

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the certification process used by the cabinet in the administration of the Food Stamp Program.

**Section 1. Eligibility and Benefit Levels.** Eligibility and benefit levels shall be determined by the cabinet by considering the households circumstances for the entire month(s) for which each household is certified. Procedures specified in 7 CFR Part[s] 273[.3, 273.10(a), 273.10(b), 273.10(c), 273.10(d), 273.10(e) and, as appropriate, 273.21(e) and 273.21(g),] and any waivers thereto approved by the federal Food and Nutrition Service (FNS) shall be used to determine eligibility and calculate net income and benefit levels. The criteria set forth in this section shall be applicable to all households. In addition, certain households require special/additional certification procedures as specified in Section 5 of this regulation.

**Section 2. Certification Periods.** The cabinet shall establish a definite period of time within which a household shall be eligible to receive benefits. At the expiration of each certification period entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and verification. Certification periods for non-public assistance households shall be in accordance with those specified in 7 CFR Parts 273.2(k)(1)(iii)(B), 273.10(f)(3)(4)(5)(6), and 273.21(a)(3). Households in which all members are included in a PA grant shall be certified for a period of time which ensures, to the extent possible, that

the recertification date and the PA reinvestigation date coincide.

**Section 3. Certification Notices to Households.** The cabinet shall provide applicants with one (1) of the following written notices as soon as a determination is made, but no later than thirty (30) days after the date of the initial application:

- (1) Notice of eligibility.
- (2) Notice of denial.
- (3) Notice of pending status.

**Section 4. Application for Recertification.** The cabinet shall process applications for recertification in accordance with 7 CFR Part 273.10(g)(2), Part 273.14 and Part 273.21(q), unless specifically waived by FNS.

**Section 5. Certification Process for Specific Households.** The following households have circumstances that are substantially different from other households and therefore require special/additional certification procedures:

(1) Households with self-employed members shall have their cases processed in accordance with 7 CFR Part 273.11(a).

(2) Households with boarders shall have their case processed in accordance with 7 CFR Part 273.11(b).

(3) Households with excluded household members which have been disqualified from program participation due to intentional program violation, failure to provide a Social Security number, because they are ineligible aliens, or because they have not verified their citizenship or alien status prior to certification, shall have their case processed in accordance with 7 CFR Part 273.11(c).

(4) Households with non-household members shall be processed in accordance with 7 CFR Part 273.11(d).

(5) Residents of drug/alcoholic treatment and rehabilitation programs in a private, non-profit organization shall have their case processed in accordance with 7 CFR Part 273.11(e).

(6) Residents of group living arrangements who are blind or disabled who receive benefits under Title II or Title XVI of the Social Security Act shall have their case processed in accordance with 7 CFR Part 273.11(f), which allows residents to apply in their own behalf or through the use of an authorized/certified facility's authorized representative.

(7) Residents of shelters for battered women and children shall have their case processed in accordance with 7 CFR 273.11(g).

(8) Households consisting only of Supplemental Security Income (SSI) applicants or recipients shall have their case processed in accordance with 7 CFR 273.2(k).

(9) Households with a member who is on strike shall have their case processed in accordance with 7 CFR 273.1(g).

(10) Households requesting replacement allotments shall be processed in accordance with 7 CFR 273.11(i[h]), 274.2(h) and 274.3(c).

(11) Student households or households containing a member(s) who is a student shall have their case processed in accordance with 7 CFR Part 273.5.

(12) Households containing a sponsored alien(s) shall have their case processed in accordance with 7 CFR Part 273.11(h).

(13) Households which are required to comply with mandatory monthly reporting criteria shall have their case processed and shall comply with reporting requirements in accordance with 7 CFR Part 273.21 and waivers thereto approved by FNS, with selected options as follows:

(a) A two (2) month system shall be used whereby the issuance month is the second month following its corresponding budget month. This system includes two (2) or three (3) beginning months, the month of application and/or month of approval and the following month. Eligibility and benefit calculation shall be determined prospectively for the beginning months.

(b) For households reporting monthly, ongoing eligibility shall be determined by considering all factors of eligibility prospectively. Benefits shall be determined retrospectively. However, any factor which causes ineligibility prospectively, for a period longer than one (1) month, shall be acted upon immediately. For households reporting less frequently than monthly, ongoing eligibility and benefits shall be determined prospectively.

(c) The amount of the PA grant which was issued in the base month shall be considered in the corresponding budget month.

(d) Counties shall terminate or suspend cases in accordance with 7 CFR Part 273.21(m) and 273.21(n).

(e) The recertification form shall serve as the report required for that month in which a household must be recertified.

(f) All households specified in 7 CFR Part 273.21(b)(2), as well as any others exempted by the appropriate federal agency, shall be excluded from mandatory monthly reporting.

Section 6. Reporting Changes. Certified households are required to report those changes in household circumstances specified in 7 CFR Part 273.12(a) within ten (10) days of the date the change becomes known to the household. An applying household shall report all changes related to its food stamp eligibility and benefits at the certification interview, or for changes occurring after the interview but prior to receipt of the notice of eligibility, within ten (10) days of the date of the notice. The cabinet shall act on reported changes in accordance with 7 CFR Part 273.12(c). The cabinet shall comply with other change reporting provisions outlined in 7 CFR Part 273.12. Households which are required to report monthly, shall not be required to submit any reports of changes other than the reports required under Section 5(13) of this regulation.

Section 7. Provisions contained in this regulation shall become effective January 16, 1985 [July 1, 1984].

E. AUSTIN, JR., Secretary  
JACK F. WADDELL, Commissioner

APPROVED BY AGENCY: February 4, 1985

FILED WITH LRC: February 12, 1985 at 9 a.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

#### 904 KAR 3:050E. Additional provisions.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 12, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth additional provisions used by the cabinet in the administration of the Food Stamp Program.

Section 1. Civil Rights Compliance. The cabinet insures that no applicant or participant shall be discriminated against in any aspect of program administration for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs.

Section 2. Restoration of Lost Benefits. Benefits shall be restored to households as specified in 7 CFR Part 273.17, when such household has lost benefits due to an administrative error.

Section 3. Program Informational Activities. Low-income or disadvantaged households shall be informed of the availability of the program and program rights and responsibilities through program informational activities as required by 7 CFR Part 272.5[6].

Section 4. Claims Against Households. The cabinet shall establish a claim, in accordance with policies in effect at the time the overissuance occurred, against households that receive more food stamp benefits than they are entitled to receive. Claims shall be determined and processed in accordance with 7 CFR Part [273.18, 273.11(h)(8) and] 272.1(g)(58)(ii), 273.11(h)(8), 273.16, and 273.18 and shall be classified as:

(1) Inadvertant household error claims. Overissuance was due to a misunderstanding or unintended error on the part of the household.

(2) Administrative error claims. Overissuance

was due to agency action or failure to take action.

(3) Intentional program violation claims. Overissuance was due to an act of intentional program violation as defined in 7 CFR 273.16(c) and set forth in 904 KAR 3:060, Section 1.

Section 5. Disclosure of Information. Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted to the following individuals:

(1) Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, or with other federal assistance programs or federally aided state programs which provide assistance, on a means-tested basis, to low income households; [assistance programs such as Titles IV-A (AFDC), XIX (Medicaid), or XVI (SSI).]

(2) Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

(3) Local, state or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include:

(a) The identity of the person requesting the information and his/her authority to do so;

(b) The nature of the violation being investigated; and

(c) The identity of the person on whom the information is requested.

Section 6. General Program Information. Regulations, plans of operation, state manuals, and federal procedures which affect the public shall be maintained in the central and local office as well as in FNS national and regional offices for examination by members of the public on regular workdays during regular office hours. Copies of regulations, plans of operation, state manuals and federal procedures may be obtained from FNS or the cabinet.

Section 7 [6]. Retention of Records. The cabinet shall retain all program records in an orderly fashion, for audit and review purposes, for a period of three (3) years from the month of origin of each record. The cabinet shall retain fiscal records and accountable documents for three (3) years from the date of fiscal or administrative closure.

Section 8 [7]. Disaster Certification. The cabinet shall distribute emergency coupon allotments to households within a food stamp county determined to be a disaster area only when so authorized by the Food and Nutrition Service.

(1) In accordance with the Disaster Relief Act, emergency food stamp assistance may be authorized by the Food and Nutrition Service of the United States Department of Agriculture as a result of a major disaster which is determined as such by the President of the United States.

(2) In accordance with the Food Stamp Act, emergency food stamp assistance may be authorized by the Food and Nutrition Service as a result of a lesser disaster, even if the affected area has not been declared a major disaster, if the emergency has resulted either

from a natural or human occurrence which disrupted the commercial channels of food distribution and the Food Stamp Program is operational.

Section 9 [8]. Provisions contained in this regulation shall become effective February 1, 1985 [April 1, 1983].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 21, 1985

FILED WITH LRC: February 12, 1985 at 9 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

904 KAR 3:090E. Incorporation by reference of materials relating to the Food Stamp Program.

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

EFFECTIVE: January 21, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977 as amended, and 7 CFR Parts 251-282. KRS 194.050 authorizes the Secretary, Cabinet for Human Resources, to issue regulations necessary for the operation of the cabinet's programs. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Food Stamp Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Food Stamp Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:

(1) Federal food stamp regulations at 7 CFR Parts 250, 251 and 271-282, which set forth the federal requirements and guidelines for the administration of the Food Stamp Program and federal food stamp general notices published through the Federal Register, effective January 1, 1985 [October 1, 1984];

(2) Department for Social Insurance Food Stamp

Handbook, which provides operating instructions, procedural detail and technical clarification for use by the department's field staff in administering the Food Stamp Program, effective January 1, 1985 [October 1, 1984]; and

(3) Federal food stamp regional letters, which set forth federal clarification of federal food stamp regulations, as follows: 80-5, 80-5.1, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-13, 80-15, 80-16, 80-17, 80-19, 80-21, 80-22.1, 80-23, 80-30, 80-31, 80-32, 80-33, 80-34, 80-36, 80-38, 80-39, 80-41.1, 80-42, 80-43, 80-44, 80-47, 80-48, 80-49, 80-50, 80-51, 80-52, 80-53, 80-54, 80-58, 80-58.1, 80-58.2, 80-59, 80-62, 80-67, 80-71, 80-72, 80-73, 80-76.1, 80-77, 80-78, 80-79, 80-80, 80-81, 80-82, 80-83, 80-85, 80-86, 80-87, 80-88, 80-89, 80-91, 80-92, 80-93, 80-96, 80-98, 80-99, 80-100, 80-101, 80-102, 80-103, 80-105, 80-106, 81-3, 81-3.1, 81-3.2, 81-4, 81-4.1, 81-4.2, 81-4.3, 81-5, 81-6, 81-8, 81-9, 81-10, 81-10.1, 81-10.2, 81-11, 81-12, 81-13, 81-14, 81-15, 81-16, 81-17, 81-18, 81-19, 81-20, 81-20.1, 81-20.2, 81-21, 81-22, 81-23, 81-24, 81-25, 81-26, 81-27, 81-28, 81-29, 81-30, 81-30.1, 81-33, 81-34, 81-34.1, 81-36, 81-37, 81-38, 81-39, 81-40, 81-41, 81-42, 81-43, 81-44, 81-45, 81-46, 81-46.1, 81-47, 81-48, 81-49, 81-50, 81-51, 81-52, 81-53, 81-54, 81-55, 81-57, 81-57.1, 81-58, 81-59, 81-60, 81-62, 81-64, 81-65, 81-66, 81-67, 81-68, 82-2, 82-3, 82-4, 82-5, 82-6, 82-7, 82-8, 82-9, 82-10, 82-11, 82-12, 82-13, 82-14, 82-15, 82-16, 82-17, 82-18,

82-18.1, 82-19, 82-20, 82-21, 82-23, 82-25, 82-25.1, 82-26, 82-27, 82-29, 82-29.1, 82-30, 82-31, 82-32, 82-35, 82-36, 82-37, 82-38, 82-39, 82-40, 83-1, 83-1.1, 83-1.2, 83-2, 83-2.1, 83-3, 83-4, 83-5, 83-6, 83-7, 83-9, 83-12, 83-14, 83-15, 83-17, 83-18, 83-19, 83-21, 83-22, 83-24, 83-25, 83-26, 83-27, 83-28, 83-30, 83-31, 83-33, 83-36, 84-1, 84-2, 84-3, 84-4, 84-5, 84-6, 84-7, 84-8, 84-9, 84-10, 84-11, 84-12, 84-13, 84-14, 84-15, 84-16, 84-17, 84-18, 84-19, 84-20, 84-21, 84-22, 84-23, 84-24, 84-26, 84-27, 84-28, 84-29, 84-30, 84-31, 84-32, 84-33, 84-34, 84-35, 84-36, 84-37, 84-38, 84-39, 84-40, 84-41, 84-42, 84-43, 84-45, 84-46, [and] 84-47, 84-48, and 84-49, effective January 1, 1985 [October 1, 1984].

(4) Federal Food and Nutrition Service South East Regional Office (SERO) regulations supplement which sets forth federal policy clearances of federal regulations specified in subsection (1) of this section, effective January 1, 1985.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 10, 1985

FILED WITH LRC: January 21, 1985 at 2 p.m.

## AS AMENDED

### FINANCE & ADMINISTRATION CABINET Kentucky State Board of Medical Licensure As Amended

#### 201 KAR 9:018. Physician advertising.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS Chapter 13A

EFFECTIVE: February 12, 1985

NECESSITY AND FUNCTION: This regulation delineates limits of permissible professional advertising with the aim of adequately informing the public about physician services while at the same time establishing safeguards to protect the public or any member thereof from false, fraudulent, misleading, deceptive, self-laudatory or unfair statements.

Section 1. This regulation shall apply to all physicians licensed to practice medicine or osteopathy in the Commonwealth. It shall apply in regard to all advertising of whatever type and wherever published.

Section 2. Advertising may be by any medium provided that the advertisement is not in any manner fraudulent, misleading or [ ] deceptive, unfair or undignified. A specific advertisement shall be considered undignified if a reasonable person would be induced more by the form of the advertisement than by the substantive information concerning professional services being advertised].

Section 3. The following may not be advertised: (1) Testimonials of patients as to the physician's skill or the quality of his or her professional services;

(2) Claims regarding the physician's experience, competency and quality of services which imply that he or she possesses an exclusive and unique skill or remedy;

(3) Claims which cannot be readily verified by objective standards; and,

(4) Any representation expressly prohibited under KRS 311.597(2).

Section 4. An advertisement may be sent to an individual addressee only if that addressee is one of a class of persons, other than a family to whom it is sent at the same time. An advertisement may not be sent to an addressee if [ , and only if it is not] prompted or precipitated by a specific event or occurrence involving or relating to the addressee as distinct from the general public.

Section 5. Violation of any provision of this regulation will be considered dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or a member thereof pursuant to KRS 311.595(8) and 311.597(2).

C. WILLIAM SCHMIDT, Executive Director

APPROVED BY AGENCY: November 15, 1984

FILED WITH LRC: November 29, 1984 at 2 p.m.

FINANCE AND ADMINISTRATION CABINET  
Kentucky State Board of Medical Licensure  
As Amended

201 KAR 9:021. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees.

RELATES TO: KRS 311.530 to 311.620, 311.990, 311.271

PURSUANT TO: KRS 311.565

EFFECTIVE: February 12, 1985

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish standards for approval of medical and osteopathic schools, colleges and universities in regard to the issuance and renewal of licenses and permits to practice medicine or osteopathy in the Commonwealth. The further purpose of this regulation is to assure that physicians obtain sufficient postgraduate training to enable them to practice with competency within the Commonwealth.

Section 1. Approval Necessary for Licensure. An applicant shall not obtain or retain any license or permit issued by the board unless and until the applicant provides sufficient proof that he or she is a graduate of a medical or osteopathic school, college or university which has been approved by the board. An applicant for limited licensure-institutional practice pursuant to KRS 311.571(4) may, however, be granted such licensure without the board's prior approval of the medical or osteopathic school, college or university upon sufficient proof that the particular school does exist and the applicant is a graduate thereof. No other license or permit issued pursuant to any other statutory or regulatory provision shall be issued unless and until the applicant's medical or osteopathic school, college or university has been fully approved. The school approval requirement will not be excused because information concerning the school is not readily ascertainable.

Section 2. Medical and Osteopathic Schools Located Within the United States or Canada. Unless approval is denied or withdrawn pursuant to Section 4 of this regulation, all medical and osteopathic schools, colleges and universities located in the United States or Canada are approved in regard to the issuance and renewal of licenses and permits upon written proof that the particular institution is:

(1) Located in the United States, its territories and protectorates and approved/accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association; or

(2) Located in Canada and approved/accredited by the Canadian Medical Association.

Section 3. Medical and Osteopathic Schools Located Outside the United States and Canada.

Unless approval is denied or withdrawn pursuant to Section 4 of this regulation, all medical and osteopathic schools located outside the United States and Canada are approved in regard to the issuance and renewal of licenses and permits upon written proof that the particular institution is:

(1) Officially recognized in good standing by the country in which the school, college or university is located;

(2) Registered as a medical school, college or university in either the World Health Organization directory or the World Directory of Medical Schools; and

(3) Possesses a basic course of clinical and classroom medical instruction of not less than thirty-two (32) months in length that is conducted under the direct authority of the medical school, college or university.

Approval of an institution under this section should be considered in conjunction with the other requirements for licensure of graduates of medical schools, colleges and universities located outside the United States and Canada. Approval under this section should not be interpreted as a statement by the board that the particular institution is equivalent to institutions approved pursuant to Section 2 of this regulation.

Section 4. Denial or Withdrawal of Approval. The board, in its discretion, may deny or withdraw approval of any medical or osteopathic school if the particular school, college or university fails to meet the requirements for approval as established in the preceding sections or if, in the board's opinion, the approval of the particular school, college or university would not be in the best interests of the Commonwealth. If approval is denied or withdrawn the board shall issue an order delineating the grounds upon which denial or withdrawal of approval is based.

Section 5. Recognition of Degrees. The board hereby takes notice that there are medical schools located outside the United States and Canada which allow students to satisfy clinical requirements of the medical school's curriculum by performing clinical clerkships in the United States. [It is the board's position that] Such clerkships shall [should] be of a character and quality equal to those performed in the United States by students in American medical and osteopathic schools. In order to assure that the clerkships performed in this country by students enrolled in foreign medical schools are to a substantial degree equivalent to the clinical training being received by medical students in this country, the applicant must demonstrate that the clerkships meet the following standards:

(1) Each clerkship (begun after the effective date of this regulation) must have been evaluated and approved by the foreign medical school prior to commencing in accord with the foreign school's established standards for approval of clerkships performed in the United States.

(2) Seventy-five (75) percent of the clerkships performed in the United States must have been performed in hospitals that:

(a) Possess accreditation by the Joint Commission on Accreditation of Hospitals;

(b) Have residencies in the subject area of the clerkship approved by the Accreditation Council on Graduate Medical Education; and

(c) Have affiliation with a medical school located in the United States.

The board will not recognize the degree of any applicant who cannot demonstrate that the clerkships he performed in the United States met the above standards. Licensure will not be granted unless the board recognizes the applicant's degree.

Section 6. [5.] Application of KRS 311.271.

(1) An applicant shall not obtain any license or permit issued by the board unless and until the applicant provides written proof that he or she has been credited with not less than sixty (60) transferable units of study by a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency recognized by the Southern Association of Colleges and Schools; provided, however, that the executive director may determine the equivalency of premedical or preosteopathic units of study credited by a college or university located outside the United States or Canada on an individual basis.

(2) It is the declared policy of the Commonwealth that a physician, who becomes initially enrolled in a school of medicine or osteopathy after June 13, 1968, should not be authorized to practice medicine or osteopathy in this state unless and until the physician can provide satisfactory evidence that he or she has fulfilled the premedical or preosteopathic undergraduate requirement delineated in subsection (1) of this section. Therefore, the board will not issue any license or permit to an applicant except upon the fulfillment of this requirement.

Section 7. [6.] Hearings. The board, in its discretion, may direct that formal or informal hearings be held in connection with the approval, denial of approval or withdrawal of approval of any medical or osteopathic school, college or university, or in the determination of qualification pursuant to KRS 311.271.

Section 8. [7.] Amount of Postgraduate Training Required. (1) All applicants for regular licensure who are graduates of medical and osteopathic schools located within the United States or Canada shall provide written proof of having completed one (1) full year of postgraduate training approved by the board.

(2) All applicants for regular licensure who are graduates of medical and osteopathic schools located outside the United States and Canada shall provide written proof of having completed three (3) full years of postgraduate training approved by the board.

(3) All applicants for limited licensure-institutional practice shall provide written proof of having completed one (1) full year of postgraduate training approved by the board.

Section 9. [8.] Postgraduate Training Programs Approved by the Board. (1) All postgraduate training programs in hospitals and institutions located in the United States and approved by the Accreditation Council for Graduate Medical Education (ACGME) are approved by the board in

regard to the fulfillment of the postgraduate training requirement for licensure.

(2) All postgraduate training programs in hospitals and institutions located in Canada and approved by the National Joint Committee on Accreditation of Preregistration Physician Training Programs in the United States or Canada are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

(3) All postgraduate training programs in hospitals and institutions located in the United States or Canada and approved by the American Osteopathic Association are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

Section 10. [9.] Fellowship Training in the United States or Canada. The board will consider on an individual basis written proof of satisfactory completion of fellowship training recognized by the board to be of satisfactory quality as substitution for the second or third year of required postgraduate training approved by the board pursuant to this regulation.

C. WILLIAM SCHMIDT

Executive Director

APPROVED BY AGENCY: November 15, 1984

FILED WITH LRC: November 29, 1984 at 2 p.m.

**PUBLIC PROTECTION AND REGULATION CABINET**  
Department for Housing, Buildings  
and Construction  
As Amended

815 KAR 20:055. Water heater devices.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 318.200

EFFECTIVE: February 12, 1985

NECESSITY AND FUNCTION: The 1984 General Assembly enacted KRS 318.200 which requires that all retailers, wholesalers and installers forward a list of names and addresses of purchasers along with the serial numbers of the appropriate agency every thirty (30) days. This regulation is to assure the submittal of the information in a format compatible with operating procedures of the department. This regulation applies only to sales in first and second class cities and urban county government.

Section 1. Manufacturers. Manufacturers shall submit to the Department of Housing, Buildings and Construction, Division of Plumbing, the required information when they act in the capacity of a retailer by selling their product directly to the end user. The required information shall be submitted on Form PLB-90 format as shown or other form as authorized by the department.

WATER HEATER REPORT FOR  
THE COMMONWEALTH OF KENTUCKY

MANUFACTURER

Manufacturer \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_



Name \_\_\_\_\_  
 Make (Gas) \_\_\_\_\_ (Electric) \_\_\_\_\_  
 (Oil) \_\_\_\_\_ (Other Fuels) \_\_\_\_\_  
 Size (Gallons) \_\_\_\_\_ Serial No. \_\_\_\_\_ Model No. \_\_\_\_\_  
 Purchaser \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Date Sold \_\_\_\_\_

Section 2. Wholesalers. Distributors shall submit to the Department of Housing, Buildings and Construction, Division of Plumbing, the required information on Form PLB-91 format as shown.

WATER HEATER REPORT FOR  
 THE COMMONWEALTH OF KENTUCKY

DISTRIBUTOR

Manufacturer \_\_\_\_\_  
 Name \_\_\_\_\_  
 Make (Gas) \_\_\_\_\_ (Electric) \_\_\_\_\_  
 (Oil) \_\_\_\_\_ (Other Fuels) \_\_\_\_\_  
 Size (Gallons) \_\_\_\_\_ Serial No. \_\_\_\_\_ Model No. \_\_\_\_\_  
 Distributor \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Purchaser \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Date Sold \_\_\_\_\_

Section 3. Retailers and Installing Contractors. Retailers and installing contractors shall submit to the Department of Housing, Buildings and Construction, Division of Plumbing, the required information on Form PLB-92 format as shown.

WATER HEATER REPORT FOR  
 THE COMMONWEALTH OF KENTUCKY

RETAILER OR INSTALLING CONTRACTOR

Manufacturer \_\_\_\_\_  
 Name \_\_\_\_\_  
 Make (Gas) \_\_\_\_\_ (Electric) \_\_\_\_\_  
 (Oil) \_\_\_\_\_ (Other Fuels) \_\_\_\_\_  
 Size (Gallons) \_\_\_\_\_ Serial No. \_\_\_\_\_ Model No. \_\_\_\_\_  
 Retailer or Installing Contractor \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Buyer \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Date Sold \_\_\_\_\_

CHARLES A. COTTON, Commissioner  
 MELVIN H. WILSON, Secretary  
 APPROVED BY AGENCY: October 4, 1984  
 FILED WITH LRC: October 9, 1984 at 1:30 p.m.

PUBLIC PROTECTION AND REGULATION CABINET  
 Department of Housing, Buildings  
 and Construction  
 As Amended

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS Chapter 318  
 PURSUANT TO: KRS 318.130  
 EFFECTIVE: February 12, 1985

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. (1) The bacteriological and chemical quality of the water supply shall comply with the regulations of the department and other governing authorities.

(2) Potable water only shall be accessible to plumbing fixtures that supply water for drinking, bathing, culinary use or the processing of medicinal, pharmaceutical or food products.

Section 2. Water Required. (1) Every building equipped with plumbing fixtures and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In buildings used as residences or buildings in which people assemble or are employed, both hot and cold water shall be supplied.

Section 3. Water Service. (1) The water service piping to any building shall be not less than three-fourths (3/4) inch nominal pipe size but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times.

(2) The underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth except they can be placed in the same trench provided:

(a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point.

(b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench.

(c) The number of joints in the water service pipe shall be kept to a minimum.

Section 4. Distribution. (1) The water supply

shall be distributed through a piping system entirely independent of any other piping system.

(2) Piping which has been used for any other purpose than conveying potable water shall not be used for conveying potable water.

(3) Non-potable water may be used for flushing water closets and urinals, provided such water shall be piped in an independent system.

(a) When a dual water distribution system is used, the non-potable water supply shall be durably and adequately identified by color markings and metal tags, or other appropriate method as may be approved by the governing authority. Each outlet on the non-potable water distribution system which might be used for drinking or domestic purposes shall be permanently posted: DANGER - UNSAFE WATER. Each branch, fitting or valve shall be identified by the word - "NON-POTABLE WATER" either by signs or brass tags that are permanently affixed to the pipe, fittings, valves, etc. These identification markings shall not be concealed. Their maintenance shall be the responsibility of the owner.

(4) Any backflow device or cross-connection control device shall be approved by the department.

(5) Combination stop and waste valves, cocks, or hydrants shall not be installed in the underground water distribution system without the installation of an approved backflow preventor.

(6) No private water supply shall be interconnected with any public water supply.

Section 5. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of water closets, urinals or similar fixtures. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 6. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section 7. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (3/4) inch. The hot and cold water piping shall extend three-fourths (3/4) inch in size to the first fixture branch. No two (2) one-half (1/2) inch fixture branches are supplied from any one-half (1/2) inch pipe. [(EXCEPTION: A combination of two (2) of the following fixtures may be connected utilizing the one-half (1/2) inch branch: a flush tank water closet, a lavatory and/or drinking fountain.)]

(2) The following schedule shall be used for sizing the water supply piping to fixtures. The branch pipe to any fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and in every instance shall be brought to the floor or wall adjacent to the fixture. No concealed water branch pipe shall be less than one-half (1/2) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bath tubs	1/2
Combination sink and tray	1/2
Cuspidor	1/2
Drinking fountain	1/2
Dishwasher (domestic)	1/2
Kitchen sink (res.)	1/2
Kitchen sink (com.)	1/2 or 3/4 as required
Lavatory	1/2
Laundry tray	1/2
Sinks (service, slop)	1/2
Sinks flushing rim	3/4
Urinal (flush tank)	1/2
Urinal (direct flush type)	1/2 or 3/4 as required
Water closet (tank type)	1/2
Water closet (flush valve type)	1
Hot water boilers	3/4
Hose bibs	1/2
Wall hydrant	1/2
Domestic clothes washer	1/2
Shower (single head)	3/4

(3) Water Hammer. In all building supply systems in which devices or appurtenances are installed utilizing quick acting valves that cause noises due to water hammer, protective devices such as air chambers or approved mechanical shock absorbers shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) Where mechanical shock absorbers are installed, they shall be in an accessible place.

(b) Where mechanical devices are used, the manufacturers specifications shall be followed as to location and method of installation.

(4) Inadequate Water Pressure. Whenever water pressure from the source of supply is insufficient, 15 lb. or less to provide adequate flow at the fixture outlets, a booster pump and pressure tank or other approved means shall be installed in the building water supply system.

(5) Variable Street Pressures. When the source of water supply has a fluctuation, the water distribution system shall be designed for the minimum pressure.

Section 8. Water Supply Pipes and Fittings, Materials. Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing, Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver

and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, PVC SDR 21 and SDR 26 conforming to ASTM D-2241, polybutylene pipe conforming to ASTM D-3309 with brass, copper or celcon fittings, Quikcite connection using a celcon astat copolymer, polybutylene cone and stainless steel ring, plastic pipe and fittings shall bear the NSF seal of approval. (EXCEPTION: Polybutylene pipe utilizing insert fittings of brass, copper or celcon shall use only copper clamping rings. Its use between the diverter spout of a tub and the shower nozzle is prohibited.) Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM 3309, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polyethylene, PVC or CPVC be used below ground under any house or building.

Section 9. Temperature and Pressure Control Devices for Shower Installations. Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide non-scald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

Section 10. Water Supply Control. (1) A main shut-off valve shall be provided near the curb, in or near the meter box or property line on the water service pipe. In addition, a main supply control valve shall be placed inside a foundation wall. The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation is prohibited for a potable water supply shut-off valve.

(2) Pressure on gravity tanks shall have their supply lines valved at or near their source.

(3) Each family unit in a two-family or multi-family dwelling shall have each family unit controlled by an arrangement of shut-off valves which will permit each unit to be shut-off without interfering with the cold water supply to any other family unit or portion of the building.

(4) In all buildings other than dwellings, shut-off valves shall be installed which permit the water supply to each piece of equipment to be isolated without interference with the supply to other equipment.

(5) Each fixture or group of bath fixtures shall be valved and each lawn sprinkler opening shall be valved. In residential construction all fixtures except bathtub and showers shall be valved individually or in lieu each group of

fixtures shall be valved.

(6) A group of fixtures or fixture group shall mean two (2) or more fixtures adjacent to or near each other in the same room or back to back on a common wall.

(7) The cold water branch to each hot water storage tank or water heater shall be provided with a shut-off valve located near the equipment and only serving this equipment.

Section 11. Water Supply Protection. All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section 12. Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

Section 13. Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

Section 14. Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" provided the solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or equal, and that the heat exchanger is pretested by the manufacturer to 450 PSI and that the water heater has a warning label advising that a nontoxic heat exchanger fluid must be used at all times and that a pressure relief valve is installed at the highest point in the solar panel.

Section 15. Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air-conditioner or heat pump water heater. These heat exchangers that transfer heat to potable water shall be double wall. This device must be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device. Condensate drain water shall be piped in accordance to the plumbing code and in no instance shall it be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in areas subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump must be utilized.

Section 16. Water Distribution for Fan Coil Units. When a domestic water heater is used for heating purposes through a fan coil medium, its temperature must not exceed 150 degrees Fahrenheit. It must utilize not less than three-fourth ( 3/4 ) inch Type M copper in its piping and its run shall not exceed 140 feet between the water heater and the heating unit. (Relates to 815 KAR 20:070.)

Section 17. Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the regulations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two (2) three-fourths ( 3/4 )

inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shut-off valve may be placed below the frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

CHARLES A. COTTON, Commissioner

MELVIN H. WILSON, Secretary

APPROVED BY AGENCY: October 4, 1984

FILED WITH LRC: October 9, 1984 at 1:30 p.m.

## AMENDED AFTER HEARING

### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Water (Amended After Hearing)

401 KAR 6:040. Water treatment plants; water distribution systems; certification of operators.

RELATES TO: KRS Chapter 223

PURSUANT TO: KRS [13.082,] 224.032(5), 224.033(17)

NECESSITY AND FUNCTION: The secretary is directed to adopt regulations applicable to certification of water treatment operators. This regulation establishes standards for classification of water treatment plants and water distribution systems; qualifications of applicants; examination procedures; duties of the board; and provisions relating to the issuance, renewal, revocation of certificates, fee schedule and other provisions necessary for certification of operators. This amendment adds a limited certification, revises the fee schedule, and makes other operational revisions.

Section 1. Definitions. The following terms shall have the meanings set forth below unless the content clearly indicates otherwise:

(1) "Board" shall be the Kentucky Board of Certification of Water Treatment Plant and Water Distribution System Operators.

(2) "Cabinet" shall be the Natural Resources and Environmental Protection Cabinet.

(3) [(2)] "Department" shall mean the Kentucky Department for [Natural Resources and] Environmental Protection.

(4) [(3)] "Secretary" shall be the Secretary of the Cabinet [Department].

(5) [(4)] "Certificate" shall mean a certificate of competency issued by the secretary or his designated agent stating that

the operator has met all requirements for the specified operator classification as set by this regulation.

(6) [(5)] "Operator" shall mean any person who has responsibility and authority to conduct or supervise the procedures and practices necessary to ensure that the water supply system or any portion thereof is operated in accordance with laws and regulations of the Commonwealth. "Operator" includes all operating personnel who have day-to-day responsibility to make those decisions necessary to ensure that the water produced or distributed meets applicable standards. Maintenance personnel and others who do not deal directly with the production or distribution of potable water are not included in the term "operator." ["Operator" shall mean a person in responsible charge of the direct operation of a water supply system or any portion thereof which may affect the performance of the system, the quality of the water or the effluent produced by such system.]

[(6)] "Responsible charge" shall mean having the authority to conduct or supervise the procedures and practices necessary to insure that the water supply system or any portion thereof is operated in accordance with accepted practices, laws and regulations of the Commonwealth.]

(7) "Public water system" means any system, irrespective of ownership, for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such terms include: the source of supply and all structures and appurtenances used for collection, treatment, storage and distribution facilities under control of the operator of such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such

system. A public water system is either a "community water system" or a "non-community water system."

(a) "Community water system" means a public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

(b) "Non-community water system" means a public water system which serves at least fifteen (15) service connections used by individuals for a period less than year-round or which serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year but less than year-round.

(8) "Semi-public water supply" means any water supply made available for drinking and/or domestic use which serves more than three (3) families but does not qualify as a public water system.

(9) "Water treatment plant" shall mean that portion of the water supply system which is designed to alter [either] the physical, chemical, or bacteriological quality of the water.

(10) "Water distribution system" shall mean the portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of a consumer.

[(11) "Association of Boards of Certification for Operating Personnel in Water and Wastewater Utilities (ABC)" shall mean that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of water supply and wastewater systems and state programs, and assists authorities in establishing new certification programs and upgrading existing ones.]

Section 2. General Provisions. (1) Each public water system shall be operated by a certified operator at all times. The operator shall hold a valid and effective operator's certificate in a class equal to or higher than the system under his direction. Water treatment systems which operate more than one (1) shift per day may use an operator who is certified in the next lower classification for the additional shifts, provided that the operator with the appropriate classification is available should an emergency arise. [under the supervision of an individual holding a current Kentucky operators certificate for at least the class of system he/she supervises. Certified operators are required for the operation of water treatment facilities as well as systems having only water distribution facilities. In the event the operator is not physically present while a plant is operating, he/she must be immediately available.]

(2) Certified operators are not required by law for semi-public water systems. It is expected that such systems will be operated by competent operators. [but they are expected to be operated by qualified persons.]

Section 3. Duties of the Board. In carrying out its responsibilities the board shall:

(1) Examine the qualifications of applicants for certification;

(2) Review and approve all substitutions of education for experience;

(3) Review and assist in the preparation of

examinations;

(4) Review the results of examinations;

(5) [(2)] Recommend qualified applicants for certification by the cabinet [department];

(6) [(3)] Maintain records [of operator qualifications, certification and register of certified operators];

(7) Recommend revocation of certificates for operators who fail to comply with applicable law and regulations;

(8) Review the regulations for certification of states which are seeking reciprocity with the Commonwealth; and

(9) Review applications and supporting documents and determine eligibility of applicants for examination and notify them of their status.

Section 4. Application for Certification. (1) An operator desiring to be certified shall file application with the board, preceding examination, on an application form provided by the board.

(2) The executive secretary= [and] treasurer of the board shall assemble all the information needed by the board to determine eligibility of the applicant for examination and certification.

[(3) The board shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify him/her of his/her status.]

Section 5. Examinations. (1) The board and cabinet [department] shall be jointly responsible for preparation of the examinations to be used in determining knowledge, ability and judgement of the applicants. [The examination questions promulgated by the ABC shall be used as a guideline.]

(2) Examinations shall be conducted at least semi-annually [held] at places and times set by the cabinet [board] with suitable method of advance announcements made by the cabinet. [board]. They shall be conducted at least semi-annually.]

(3) Except in [such] cases which the board may decide represent proper exceptions, all examinations shall be written. All examinations will be graded by the board, or by its designated representative [the department] and the applicant notified of the outcome. Applicants will be required to achieve a score of seventy (70) percent [answer at least seventy (70) percent of the examination items correctly] in order to [successfully] pass the examination. Papers will not be returned to the applicant, but means will be provided to review the results with a member of the board or cabinet [department] upon written request by the applicant.

[(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities of operators, types of facilities and other pertinent matters.]

(4) [(5)] Applicants who fail to pass an examination are not eligible to [may] repeat the examination until a period of ninety (90) days has elapsed [at the subsequent regularly scheduled examination].

Section 6. Fees. (1) Fees for certification of water treatment plant and water distribution system applicants shall be the following:

(a) Initial [certification with] examination:

ten (10) [fifteen (15)] dollars [\$10].

(b) Certification by reciprocity: ten (10) dollars.

(c) Re-examination for a new certificate or to make up for failure to pass an examination: eight (8) dollars for each re-examination.

(d) Reinstatement of a lapsed certificate: ten (10) dollars plus renewal fee.

(e) Initial certificate or renewal: five (5) dollars per year [Annual renewal of certificate: \$4].

(2) Fees accompanying applications will not be returned to those who fail to pass the examination [do not qualify for a certificate].

Section 7. Issuance of Certificates. (1) Upon satisfactory fulfillment of the requirements provided herein and upon recommendation of the Board of Certification, the cabinet [department] shall issue a suitable certificate to the applicant designating [his/her competency. This certificate will indicate] the classification of the water treatment plant or water distribution system for which the operator has demonstrated competency [is qualified].

(2) Certificates for classes I through IV shall be valid for two (2) [one (1)] years unless revoked for cause or replaced by one of a higher classification. Certificates of operators in good standing will be renewed without examination biennially in even-numbered years beginning 1986 [annually], upon written application and submission of the applicable renewal fee[, without examination]. Limited certification will be renewed annually and only after the cabinet certifies that the holder of the certificate has complied with all requirements for properly operating the facility under his charge.

(3) Certified operators who desire to become certified in a higher classification shall [must first] satisfactorily complete the requirements for the higher classification before a new certificate is issued. Experience under a limited certificate does not count toward fulfillment of qualifications for other classifications.

(4) Certificates shall be valid only so long as the holder uses reasonable care, judgment and application of his/her knowledge in the performance of his/her duties. No certificate will be valid if obtained through fraud, deceit or the submission of inaccurate data on qualifications.

(5) The certificates of operators who terminate their employment as [at] a water treatment plant or water distribution system operator will be valid for two (2) [four (4)] [five (5)] years providing they are renewed as required by subparagraph (2) of this section, except for limited certificate holders [Section 7(2) of this regulation]. After four (4) [five (5)] years, the certificate will be automatically invalidated. Limited certificates become invalid immediately if not renewed.

(6) Operators whose certificates have been [are] invalidated may be issued new certificates after passing an examination in the classification for which they are qualified. [of like classification provided appropriate proof of competency is presented to the department. Successful completion of an examination may be required at the discretion of the board.]

(7) [(6)] Certificates [may be issued, without

examination] in a comparable classification may be issued without examination to any person who holds a certificate in any state, territory, or possession of the United States or any country provided the requirements for certification of operators under which the person's certificate was issued do not conflict with any provisions of KRS Chapter 223 and are of a standard not lower than that specified by regulations adopted under said chapter; and, providing further, that reciprocal privileges are granted to certified operators of this state.

(8) [(7)] Wall certificates shall be prominently displayed in the office of the operator.

[(8)] Certificates heretofore issued by the department shall continue in full force and effect, unless revoked for cause, until such time as the department issues new certificates based upon the new classifications provided herein.]

(9) Wallet cards showing current certification status shall be carried by the operator at all times while on duty.

(10) Training requirements.

(a) Class II, III, and IV operators shall complete twelve (12) hours of appropriate board-approved training for certificate renewal. Class I operators shall complete six (6) hours of training for renewal. Such training shall include, but is not limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. Training hours completed in any given biennium [year] in excess of the minimum requirement necessary for renewal may be carried forward for a period not to exceed two (2) years. No training is required for holders of limited certificates.

(b) The board may waive any or all of the requirements of subparagraph (a) of this paragraph for all or portions of a class of operators as defined in Section 9 of this regulation.

(c) Requirements of this subsection shall be effective for certification renewal at midnight on February 28, 1986.

Section 8. Revocation of Certificates. The cabinet [department] may revoke the certificate of an operator[, ] following a hearing before the cabinet [department] or its designated representative[, ] when it is found that the operator has practiced fraud or deception, that reasonable care, judgment or the application of his/her knowledge was not used in the performance of his/her duties, or that the operator is incompetent, [or] unable or unwilling to [properly] perform his/her duties properly.

Section 9. Classification of Water Treatment Plants and Water Distribution Systems. (1) Classification shall be generally in accordance with the following [four (4)] classes. However, the cabinet [department] may make changes in classification in accordance with the needs created by particular complexities of any specific plant or distribution system by reason of special features of design, or by reason of a source of supply that is particularly hazardous or which has characteristics that may make operation more difficult than normal, or a combination of such conditions. Due notice of any such change shall be given to the owner of

the treatment plant and/or water distribution system.

(2) Water treatment plants.

(a) Class I.

1. (Class IA) All plants using physical treatment and disinfection and serving a population less than 500.]

2. (Class IB) All plants using disinfection and serving a population less than 500.]

1. [3.] (Class IA-D) All plants using physical treatment and disinfection wherein the treatment plant operator is also responsible for the [maintenance of the] distribution system and which serves a population less than 500.

2. [4.] (Class IB-D) All plants using disinfection wherein the treatment plant operator is also responsible for the [maintenance of the] distribution system and which serves a population less than 500.

(b) Class II.

1. (Class IIA) All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population less than 3,000.

2. (Class IIB) All plants using physical treatment and disinfection and serving a population equal to or greater than 500 and less than 3,000.]

3. (Class IIC) All plants using disinfection and serving a population equal to or greater than 500 and less than 3,000.]

2. [4.] (Class IIB-D) All plants using physical treatment and disinfection wherein the treatment plant operator is also responsible for the [maintenance of the] distribution system and which serves a population equal to or greater than 500 but less than 3,000.

3. [5.] (Class IIC-D) All plants using disinfection wherein the treatment plant operator is also responsible for the [maintenance of the] distribution system and which serves a population equal to or greater than 500 but less than 3,000.

(c) Class III.

1. (Class IIIA) All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population equal to or greater than 3,000 and less than 15,000.

2. (Class IIIB) All plants using physical treatment and disinfection and serving a population equal to or greater than 3,000.

3. (Class IIIC) All plants using disinfection and serving a population equal to or greater than 3,000.

(d) Class IVA. All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population equal to or greater than 15,000.

(3) Water distribution system.

(a) Class ID. All distribution systems serving a population less than or equal to 1,500.

(b) Class IID. All distribution systems serving a population greater than 1,500 and less than or equal to 15,000.

(c) Class IIID. All distribution systems serving a population greater than 15,000 and less than or equal to 50,000.

(d) Class IVD. All distribution systems serving a population greater than 50,000.

(4) A limited classification is available to

water treatment facilities for schools or semi-public water supplies.

(5) [(4)] Special designation(s) may be added to any certificate when found necessary to show competency of the operator for a parameter of treatment or operation not covered by the basic requirements for standard classification contained herein.

Section 10. Classification of Water Treatment Plant and Water Distribution System Operators. Five (5) [Four (4)] classes of operators are hereby established and shall range from Class I through Class IV, plus Limited. Each operator classification is intended to relate directly to the corresponding classification of water treatment plant or water distribution system.

Section 11. Operator Qualifications: Experience, Education and Equivalencies. (1) Operators shall be examined by the board as to education, experience, and knowledge as related to the classification of water treatment plants or water distribution systems for which examined. [Applicants shall be required further to give evidence of good moral character, dependability, initiative, interest in his/her work, and other pertinent characteristics in relation to operation of the class of water facility for which certification is being applied.] Applicants must pass the required written examinations.

(2) Experience and educational requirements of operators shall be as follows:

(a) Class I-AD and Class I-BD [Class I].

1. Completion of high school or General Educational Development (GED) test [equivalent]; and

2. One (1) year of acceptable operation of applicable treatment plant and distribution system.

(b) Class IIA.

1. Completion of high school or GED [equivalent]; and

2. Two (2) [Three (3)] years of acceptable operation of an applicable treatment plant/[distribution system of Class I] with six (6) months in a Class IIA treatment plant or higher.

(c) Class IIB-D and Class IIC-D.

1. Completion of high school or GED; and

2. Two (2) years acceptable operation of a Class IA-D or Class IB-D combined treatment and distribution system with six (6) months in a Class IIA treatment plant or higher.

(d) [(c)] Class IIIA.

1. Completion of high school or GED [equivalent]; and

2. Three (3) years of acceptable operation of applicable treatment plant/[distribution system] of Class IIA or higher.

3. Six (6) months experience in a Class IIIA treatment plant.

(e) Class IIIB.

1. Completion of high school or GED; and

2. Three (3) years of acceptable operation of applicable treatment plant or Class IIB-D or higher.

3. Six (6) months experience in a Class IIIB treatment plant.

(f) Class IIIC.

1. Completion of high school or GED; and

2. Three (3) years of acceptable operation of applicable treatment plant of Class IIC-D or

higher.

3. Six (6) months experience in a Class IIIC treatment plant.

(g) [(d)] Class IVA.

1. A college degree in a standard curriculum in engineering, allied sciences or equivalent; and

2. At least two (2) [five (5)] years of acceptable operation of Class IIA [applicable] treatment plant[/distribution system of Class III] or higher with one (1) year in a Class IVA treatment plant.

(h) Limited classification. Under the provisions of KRS 223.160, an operator of a water treatment facility for a school or for a semi-public water supply shall be entitled to a limited certificate of competency for his particular facility provided he has demonstrated that he has the knowledge and experience required to operate properly the particular water treatment facility for which he is responsible.

[(3) In evaluating qualifications of operators and experience/educational equivalencies the board shall be guided by the following:]

[(a) Experience requiring some technical knowledge of the work and whether or not responsible charge of work was included. In large plants, where responsibility is divided, supervisors of important divisions may be credited with having responsible charge.]

[(b) Experience, to be acceptable, must be the result of satisfactory accomplishment of work. Evaluation may be based on reports of the department or other agencies having appropriate responsibilities for supervising systems and plants.]

[(c) Partial credit may be given for operating experience in maintenance, laboratories or other work of water treatment or distribution systems and allied trades such as plumbing.]

(3) [(d)] Where applicable, education may be substituted for a portion of experience requirements as specified below:

(a) No substitution for Class I.

(b) College credits earned in engineering, allied sciences or an associate degree in engineering technology may, as approved by the board, be substituted for experience limited to one (1) year for Class II, two (2) years for Class III, and three (3) years for Class IV. Education applied to the experience requirement cannot also be applied to the educational requirement.

1. One (1) year of college work (limited to approved curricula in environmental engineering, environmental technology or related scientific fields) may be considered as equivalent to a maximum of two (2) years of experience or one (1) year of experience with responsible charge.]

2. Where education is substituted for experience it shall not exceed an amount which would reduce the requirements of actual operating experience to less than six (6) months for Class I or less than two (2) years for Classes II and III or three (3) years for Class IV.]

3. Education applied to the experience requirement cannot also be applied to the education requirement.]

(c) Where applicable, experience may be substituted for education requirements as specified below:

1. One (1) year of experience may be

considered as equivalent to a maximum of two (2) years of high school.]

1. [2. Each year of responsible charge or] Two (2) years experience in an important phase of operation at a Class II level or above [, other than responsible charge,] will be considered equivalent to one (1) year of college. Eight (8) years of such experience may be substituted for the requirement of a college degree.

2. [3.] Experience applied to education requirements may not also be applied to the experience requirement.

[(f) Substitutions for formal education may be as follows:]

1. Training credits (T.C.) for board approved operator training schools, seminars and technical courses may be substituted for high school and college requirements. One (1) year of college work equals thirty (30) semester hours or forty-five (45) quarter hours. Six (6) classroom hours of board approved courses shall equal one (1) T.C., and forty-five (45) T.C. equals eighteen (18) semester hours of college or one (1) year of high school.]

2. An acceptable high school equivalency certificate may be used to substitute for graduation from high school.]

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: February 13, 1985

FILED WITH LRC: February 13, 1985 at noon

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Leon Smothers

(1) Type and number of entities affected: These regulatory changes will affect about 1700 currently certified water treatment plant and distribution system operators, plus an additional 150 new operators a year.

(a) Direct and indirect costs or savings to those affected:

1. First year: The renewal fee for a water treatment plant or distribution system operator's certificate will be increased from \$4 to \$5 per year. The operators will also be required to have specified amounts of continuing education for recertification.

2. Continuing costs or savings: Same as (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Same as (1)(a)1. No effect upon competition.

(b) Reporting and paperwork requirements: Operators will be required to report any continuing education courses taken (other than those provided by the Division) for which they wish to receive credit.

(2) Effects on the promulgating administrative body: This regulation revision would change the requirements for renewing certifications from annual renewal to a biennial.

(a) Direct and indirect costs or savings:

1. First year: The Division will be able to save approximately one-half of the administrative expenses incurred in renewing operator certifications. In addition, the increased fee will allow the Commonwealth to reduce the degree to which it is subsidizing this program. The recertification provision (see (1)(a)1 above) will require additional costs to the Division for increased training and for verifying number of hours accumulated.

2. Continuing costs or savings: Same as (2)(a)1



3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: This regulation will increase state revenues by about \$2450 per year.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternatives to the funding were (1) to reduce or eliminate the certification program and the attendant efforts the Division makes for training operators and providing for their continuing education or (2) to provide for even more of these activities from general fund revenues. Since the certification and training activities are required by law and since qualified operation is absolutely necessary for providing safe drinking water, we cannot justify abandoning these activities. In addition, since operators receive compensation for their activities, we feel that issuance and renewal fees are legitimate costs for their profession and should not be borne by the general public or any other group.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable.

**EDUCATION AND HUMANITIES CABINET**  
Department of Education  
Office of the Superintendent  
(Amended After Hearing)

701 KAR 5:060. Code of ethics for state testing program.

RELATES TO: KRS 158.650 to 158.750

PURSUANT TO: KRS 156.070, 158.670

NECESSITY AND FUNCTION: KRS 158.650 to 158.750 mandate statewide basic and essential skills testing programs, the result of which are to be used to assure that all public school students are acquiring appropriate skills; to aid districts in developing educational improvement plans; and to identify school districts which are educationally deficient. Such statutes also require the Department of Education to develop and implement the statewide testing program. This regulation is necessary to fulfill the intent and purpose of the Educational Improvement Act and to promote the integrity of the testing program by providing guidelines for the administration of the statewide assessment program at the classroom, school, and district levels.

Section 1. Each local district board of education shall assure that the statewide assessment program required by KRS 158.650 to 158.750 is administered in accordance with the guidelines developed by the Kentucky Advisory Committee for Educational Improvement and approved by the State Board of Education. The

guidelines, as approved by the State Board of Education, comprise the document "Code of Ethics for the State Testing Program, November, 1984," and as amended in February, 1985, which is incorporated herein by reference and copies of which may be obtained from the Office of Research and Planning, Department of Education.

Section 2. Each local district board of education shall submit to the Department of Education, at the same time test answer documents are submitted, a certification that the district has adhered to the guidelines set forth in the incorporated code of ethics. Local district certification shall be submitted by the district as a prerequisite to the scoring of local district test answer documents.

Section 3. Each local district shall provide to the Department of Education and the State Board of Education a written explanation of any cases involving exceptions to compliance with the guidelines as set forth in the code of ethics.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED BY AGENCY: November 28, 1984

FILED WITH LRC: February 8, 1985, at noon.

**EDUCATION AND HUMANITIES CABINET**  
Department of Education  
Office of Instruction  
(Amended After Hearing)

704 KAR 3:340. Commonwealth Diploma Program.

RELATES TO: KRS 156.070, 156.160

PURSUANT TO: KRS 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.070 authorizes the State Board of Education to prescribe such courses of study, curriculums, and programs as it deems necessary for the common schools; and KRS 156.160 requires the State Board of Education to adopt regulations determining the scope of instruction that may be offered in the common schools and the minimum requirements for graduation from offered courses. A Commonwealth Diploma shall be issued to students completing a Commonwealth Diploma Program. The purpose of such a diploma and program are as follows: a) to encourage high academic achievement in Kentucky high schools; b) to encourage more of the capable students to attend college; c) to improve the working relationship between high schools and colleges and universities; and d) to allow students to gain college credit prior to attending college. This regulation implements a Commonwealth Diploma Program and sets forth the conditions and criteria under which a Commonwealth Diploma shall be issued.

Section 1. The Kentucky State Board of Education shall award to each student in the public schools of this state completing a Commonwealth Diploma Program a Commonwealth Diploma. This diploma shall be printed by the Kentucky Department of Education and sent to the appropriate district upon verification of program completion to the Department of Education by the local district. Each diploma shall be issued in the name of each student so identified. Verification to the Department of

Education shall be on forms supplied by the Department of Education and shall be submitted in a timely fashion so as to provide for awarding of the Commonwealth Diploma at regularly scheduled graduation ceremonies. Those students receiving Commonwealth Diplomas should be cited as recipients at graduation ceremonies.

Section 2. The requirements for obtaining a Commonwealth Diploma are as follows:

(1) Successful completion of at least twenty-two (22) approved units of credit, including all the minimum unit requirements for high school graduation set forth in 704 KAR 3:305 or as specified by the applicable local board of education.

(2) Successful completion of all minimum requirements of the Pre-College Curriculum established by the Council on Higher Education. Minimum Pre-College Preparation requirements are as follows:

(a) Language arts - four (4) units (English I, English II, English III, and English IV);

(b) Mathematics - three (3) units (Algebra I, or Algebra II, geometry, and one (1) elective);

(c) Science - two (2) units (Biology I or Chemistry I, or Physics I, and one (1) elective); and

(d) Social Studies - two (2) units (including World Civilization and U. S. History).

(3) Successful completion of at least four (4) courses, as hereinafter designated and which contain essential content as described in the Advanced Placement (AP) Program Course Description booklets of the College Entrance Examination Board, such booklets being incorporated herein by reference and copies of which may be obtained from the Office of Instruction:

(a) English, May 1985, May 1986 - one (1) course;

(b) Science or mathematics - one (1) course (selected from biology, May 1985, May 1986; chemistry, May 1985, May 1986; or physics, May 1985, May 1986) or mathematics, May 1985, May 1986;

(c) Foreign language - one (1) course (selected from French, May 1985; German, May 1986; Latin, May 1985; or Spanish, May 1985, May 1986); and

(d) One (1) additional course (selected from English; science; foreign language; history, May 1985; [mathematics, May 1985, May 1986;] computer science, May 1985, May 1986; music, May 1985; or art, May 1985).

(4) Successful completion of at least four (4) courses, as hereinafter designated and which contain essential content as described in the Course Development Manual of the International Baccalaureate (IB) Office. International Baccalaureate North America, such booklets being incorporated herein by reference and copies of which may be obtained from the Office of Instruction:

(a) English, March 1983 - one (1) course;

(b) Science or mathematics - one (1) course (selected from biology, March 1983; chemistry, March 1983; physics, March 1983); or mathematics, March 1983;

(c) Foreign language - one (1) course (selected from French, March 1983; or Spanish, March 1983); and

(d) One (1) additional course (selected from French, March 1983; Spanish, March 1983;

mathematics, March 1983; biology, March 1983; chemistry, March 1983; or physics, March 1983).

(5) [(4)] Completion of at least one (1) AP or IB Examination in four (4) [three (3)] of the AP or IB areas specified in subsection (3) of this section, without regard to score, for the purpose of compiling information for assisting school districts in improving their Commonwealth Diploma programs and for establishing future eligibility criteria for school districts to participate in the program.

Section 3. The Kentucky Department of Education shall reimburse the costs of all Advanced Placement and International Baccalaureate testing required for [to] each student awarded a Commonwealth Diploma. Reimbursement funds shall be sent for distribution to local districts once each year during the month of June on the basis of documentation supplied by the local district.

ALICE MCDONALD

Superintendent of Public Instruction

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**EDUCATION AND HUMANITIES CABINET**  
Department of Education  
Office of Instruction  
(Amended After Hearing)

704 KAR 3:345. Evaluation guidelines.

RELATES TO: KRS 156.101

PURSUANT TO: KRS 156.070, 156.101

NECESSITY AND FUNCTION: KRS 156.101 requires the State Board of Education to establish a statewide program for evaluation of certified school employees, including the superintendents, and to adopt guidelines developed by the Department of Education for implementing the program and establishing the framework within which each local school district is to develop its own evaluation policies. This regulation establishes the requirements for the evaluation programs and policies of local school districts.

Section 1. Definitions. (1) Teacher - for the purpose of this regulation, any certified staff person who directly instructs students.

(2) Administrator - for the purpose of this regulation, any certified staff person other than the classroom teacher.

(3) Evaluation - the process of assessing or determining the effectiveness of the performance of the certified employee in a given teaching/learning or leadership/management situation, based on predetermined criteria, through observation and other means of gathering information.

(4) Formative evaluation - a continuous cycle of collecting evaluation information through observation and other means, and interacting or providing feedback and suggestions regarding the certified employee's teaching or administrative performance. The formative evaluation phase may also include the establishment of an improvement plan mutually agreed upon by the evaluator and the evaluated certified employee.

(5) Summative evaluation - the summary of the results of the formative evaluation phase occurring at the end of an evaluation cycle.

Summative evaluation includes a conference involving the evaluator and the evaluated certified employee, and a written evaluation report.

(6) Observation - the process of gathering information, based on predetermined criteria, to determine the effectiveness of the teacher by observing in the classroom the behaviors of the teacher and the reactions of the students to the teaching process, as well as the physical set of the classroom.

(7) Conference - a meeting involving the evaluator and the certified employee evaluated for the purpose of providing feedback from the evaluator, analyzing the results of the observation(s) or other information to determine strengths and weaknesses, to develop a plan for improvement and follow-up.

(8) Performance criteria - predetermined performance areas or skills on which the certified employee will be evaluated.

(9) Indicators - observable level of attainment of a performance criterion.

(10) Standards of performance - acceptable qualitative and/or quantitative level of performance expected of effective teachers/administrators.

(11) Position - term used to signify a professional role in the school district (e.g., teacher, secondary principal, supervisor of instruction).

(12) Job category - term used to signify a group or class of positions with closely related functions (e.g., principal, coordinator, director, etc.).

Section 2. [1.] By July 1 [June 1], 1985, each local school district shall submit an evaluation plan and procedures to the Department of Education for approval. The Superintendent of Public Instruction may extend the deadline to August 1, 1985, for local districts to submit the evaluation plan and procedures when documenting and compelling extenuating circumstances merit such extensions. [Such] Approval of the plan and procedures shall be for the purpose of certification as to the compliance of each specific school district's evaluation plan with the broad guidelines set forth herein.

Section 3. [2.] The local school district shall have a written policy for the evaluation of all certified employees. The policy shall include a statement that the purposes of the evaluation system are to improve instruction, provide a measure of performance accountability to citizens and to provide encouragement and incentives for certified employees to improve their performances, as well as to support individual personnel decisions. The policy shall also contain a procedure that provides all certified school personnel an opportunity for a review of their evaluation.

Section 4. [3.] All employees required to hold a valid certificate, issued by the Kentucky Department of Education, in order to perform their functions are to be evaluated as follows:

(1) The initial evaluation process shall be completed for all administrators, including the superintendent, and non-tenured teachers, under an approved plan by the end of the 1985-86 school year [All administrators, including the

superintendent, and non-tenured teachers shall be initially evaluated under an approved plan by the end of the 1985-86 school year].

(2) The initial evaluation process shall be completed for all tenured teachers under an approved plan by the end of the 1986-87 school year [All tenured classroom teachers shall be initially evaluated under an approved plan by the end of the 1986-87 school year].

(3) In any local school district with an established evaluation plan in full operation during the 1984-85 school year which provides for a three (3) year evaluation cycle for tenured teachers, any evaluations of tenured teachers during the 1984-85 school year may be considered the initial evaluation of those tenured teachers as required by subsection (2) of this section, provided that such evaluation plan and procedures are approved by the Department of Education pursuant to the provisions of this regulation.

Section 5. [4.] (1) An ad hoc committee consisting of equal numbers of teachers and administrators shall develop evaluation procedures and forms. Separate evaluation procedures and forms shall be developed [by the local board of education and the superintendent] for use in the evaluation of the superintendent. All procedures and forms shall be approved by [the superintendent and] the local board of education.

(2) The procedures shall provide for both formative evaluation and summative evaluation and shall include, but not be limited to, the following elements:

(a) The immediate supervisor of the certified school employee shall be designated the primary evaluator. Additional administrative personnel [and other means of evaluation (self, peer, etc.)] may be used in addition to the primary evaluator.

(b) All monitoring or observations of performance of a certified employee shall be conducted openly and with the full knowledge of the teacher or administrator. [Unannounced visits to the classroom are not precluded.] The local district may determine the length and frequency and nature of observations conducted by an evaluator.

(c) The evaluation system shall include a plan whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator [After an initial observation and/or consultation of the teacher or administrator, an improvement or growth plan is to be established whereby the teacher or administrator is given assistance for becoming more proficient of his/her job].

(d) Evaluation shall include a minimum of one (1) conference between the evaluator and the person evaluated. However, additional conferences after observations are recommended.

(e) Evaluation with multiple observations shall occur annually for each non-tenured certified employee.

(f) Multiple observations shall be conducted with certified employees whose initial observation results are unsatisfactory.

(g) Evaluation shall occur, at a minimum, once every three (3) [two (2)] year period for each tenured teacher. The local district may evaluate tenured teachers with greater frequency than the minimum.

(h) Evaluation shall occur annually for administrators, except for superintendents who may be evaluated not less than every two (2) years.

(i) All evaluations shall be in writing on an evaluation form.

(j) All observations shall include documentation of information to be used in determining the performance of the person evaluated [All observations shall be documented].

(k) The evaluation system shall provide personnel an opportunity for a written response by the certified employee evaluated.

(l) A copy of the evaluation shall be provided to the person evaluated.

Section 6. [5.] (1) The evaluation procedures and forms shall be designed to support individual personnel decisions.

(2) The evaluation forms shall include, but not limited to, a list of performance criteria characteristic of effective teaching or administrative practices. The performance criteria shall include, but not limited to the following:

(a) Performs professional responsibilities and duties as outlined in the job description including regular attendance and punctuality;

(b) Demonstrates effective classroom and/or staff management skills;

(c) Uses instructional strategies and processes effectively;

(d) Demonstrates effective interpersonal and communication skills with peers, subordinates, students and/or parents;

(e) Demonstrates knowledge of subject matter and/or administrative techniques;

(f) Plans and evaluates instructional and/or administrative activities. Under each criterion, specific indicators that can be observed and recorded shall be listed. In addition, standards of performance shall be established for each criterion.

(3) All certified school personnel shall be made aware of the criteria on which they are to be evaluated at the beginning of the evaluation period.

(4) Evaluation forms or instruments shall be specific for each position or job category. Other forms for observation and pre- and post-conferences may be used at the discretion of the local district.

Section 7. [6.] (1) All evaluators shall be trained.

(2) Such training shall:

(a) Be appropriate and specific to the local district system implemented pursuant to KRS 156.101(6) and the proper techniques for effectively evaluating certified personnel; and

(b) Be conducted by persons who have received training in evaluation methods and/or have conducted training in evaluation methods [in programs approved by the State Board of Education].

(c) Be approved as a part of the evaluation plan and procedures submitted to the State Department of Education.

(3) Each local district shall designate a person responsible for evaluation training and as the contact person for the evaluation plan submitted by the local district.

Section 8. [7.] The evaluation plan shall be reviewed annually to ensure that the evaluation system is serving the purposes for which it was established. Revisions are to be approved by the State Department of Education.

ALICE MCDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: November 28, 1984

FILED WITH LRC: February 8, 1985 at noon.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Amended After Hearing)

704 KAR 7:050. Student discipline guidelines.

RELATES TO: KRS 158.148

PURSUANT TO: KRS 156.070, 158.148

NECESSITY AND FUNCTION: KRS 158.148 directs the Kentucky Department of Education to obtain statewide data on discipline problems and, in consultation with groups listed in KRS 158.148, develop guidelines containing broad principles to guide local school districts in developing their own discipline codes. These guidelines, developed by the Department of Education in cooperation with the appropriate groups, are hereby adopted by the State Board of Education. This regulation, also, sets up procedures and the time schedule for administering KRS 158.148.

Section 1. The Kentucky State Board of Education hereby adopts and incorporates by reference the "Student Discipline Guidelines, October, 1984" and as amended in February, 1985. developed by the Department of Education. Copies of such document may be obtained from the Division of Student Services, Department of Education.

Section 2. (1) The local discipline codes developed pursuant to the herein-adopted guidelines shall be forwarded by the local school board to the Department of Education no later than June 1, 1985.

(2) The Department of Education shall review each local discipline code, and if the code appears to meet the established criteria for approval, each local code shall be presented to the state board for review and approval. Review and approval of each specific local discipline code shall be solely for the purpose of certifying that an individual local code complies with the broad guidelines incorporated by this regulation. Approval of the state board shall be communicated to the local district.

(3) If the established criteria for approval are not met by the local code, the local school board shall be informed accordingly and asked to revise the code in order that it conforms to the broad principles set forth in the herein-adopted guidelines. The local school board shall resubmit them to the Department of Education after making necessary revisions.

(4) After approval of the local code by the state board, the school district shall forthwith adopt and implement the code, and inform the Department of Education accordingly. All local discipline codes, insofar as is practicable, shall be implemented by the beginning of the

1985-86 school year.

(5) Beginning with the 1986-87 school year, compliance with this regulation by districts with approved discipline codes will be determined in accordance with provisions to be included in the "Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools."

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: November 28, 1984

FILED WITH LRC: February 8, 1985 at noon.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management and Development**  
**(Amended After Hearing)**

**904 KAR 1:045. Payments for mental health center services.**

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR 447.325, the cabinet shall make payment to Kentucky based (in-state) providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractual arrangements as the cabinet may require of this class of provider) set by the cabinet, on the following basis:

(1) Payment shall be on a prospective basis based on reasonable allowable prior year costs (utilizing the latest audited annual cost report or unaudited report if an audited report is not available) not to exceed usual and customary charges or the upper limits on payments. Allowable costs shall be trended to the beginning of the rate year and indexed for the rate year, so as to more accurately approximate actual costs which will be incurred during the year. (If an unaudited report is used, cost will not be adjusted based on audit.)

(2) Payment amounts shall be determined by application of the "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement," (revised July 1, 1984) developed and issued by the cabinet, (incorporated by reference to the extent that such policies, guidelines and principles are applicable to Title XIX services and reimbursement, and filed herein), supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable. Allowable costs shall not include the costs associated with political contributions, membership dues, travel and related costs for trips outside the state (for purposes of conventions, meetings,

assemblies, conferences, or any related activities), and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs.

(4) The prospective rate shall not exceed 110 percent of the median of the reasonable allowable cost for each reimbursable departmental cost center (i.e., inpatient, outpatient, partial hospitalization and personal care) for all participating facilities.

**Section 2. Implementation of Payment System.**

(1) Payments may be based on units of service such as fifteen (15) minute or hourly increments, or at a daily rate, depending on the type of service.

(2) Overpayments discovered as a result of audits may be settled in the usual manner, i.e., through recoupment or withholding.

(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the cabinet at the end of each fiscal reporting period, and at such intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet. Notwithstanding this general requirement, the provider need not make available (for purposes of determining Medicaid payment amounts) staff notes or treatment records which show treatment details for non-Medicaid covered services; for such services, the information required shall be limited to a case summary sheet or listing which shows, at a minimum, the type of service provided, the staff member who provided the service, the date of the service, and appropriate identifying information relating to the patient.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The cabinet shall not make reimbursement under the provisions of this regulation for services not covered by 904 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the cabinet's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

Section 4. Reimbursement of Out-of-State Providers. The cabinet shall make payment to out-of-state mental health center providers who are appropriately licensed, participate with their state's Title XIX Medicaid Program, and have met the Kentucky Medical Assistance Program conditions of participation. The payment rate will be the lower of charges, or the facility's rate as set by the state Medicaid Program in the

other state, or the upper limit for that type of service in effect for Kentucky providers.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 5, 1985

FILED WITH LRC: February 5, 1985 at noon

## PROPOSED AMENDMENTS

### FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Veterinary Examiners (Proposed Amendment)

#### 201 KAR 16:010. Code of Conduct.

RELATES TO: KRS 321.350(6)(7)

PURSUANT TO: KRS 321.240

NECESSITY AND FUNCTION: KRS 321.350(6) provides that the board may suspend or revoke a certificate of license for any gross negligence, incompetence or misconduct in the practice of veterinary medicine in this Commonwealth. KRS 321.350(7) provides for the suspension or revocation of a certificate of license for any violation of the code of conduct promulgated by the board. This regulation sets forth certain acts or inaction which shall constitute gross negligence or misconduct in the practice of veterinary medicine and likewise sets forth a code of conduct for each licensed practitioner.

Section 1. The failure on the part of any veterinarian to take the time necessary to attempt to diagnose the condition of the animal which he is attempting to treat shall constitute gross negligence, incompetence and misconduct.

Section 2. The continued failure of a veterinarian to treat the animal which he has undertaken to treat in a manner that a qualified veterinarian would use under the same or similar circumstance shall constitute gross negligence, incompetence and misconduct.

Section 3. The failure of a veterinarian to maintain adequate equipment to treat animals that he is called upon to treat in the practice of veterinary medicine shall constitute gross negligence, incompetence and misconduct in the practice of veterinary medicine.

Section 4. All veterinary offices and clinics, including instruments and equipment contained therein, shall at all times be kept clean and free from any condition or surroundings that will make or tend to make said instruments and equipment unsanitary or unhygienic.

Section 5. Any veterinarian who misrepresents or misstates information on a health certificate or any other document relating to the sale, movement or transportation of animals, or who pre-signs health certificates or other related documents in order that they may be used by some other person or persons, is guilty of misconduct in the practice of veterinary medicine.

Section 6. No veterinarian shall permit, encourage or aid any person or corporation to engage in the unauthorized and illegal practice of veterinary medicine.

Section 7. A veterinarian shall be guilty of misconduct if he sells or offers for sale medicine and drugs at any place other than his office, clinic or hospital or at the place where he is treating animals and the drugs and medicines will be used in the treatment of said animal.

Section 8. A veterinarian may advertise by any medium. Advertisements shall:

(1) Not be false, deceptive or fraudulent.

(2) Advertisements of price shall be specific as to services and materials included for the advertised price.

(3) Claims of quality or superiority shall not reflect unfavorably on the veterinary profession or on any veterinarian.

(4) Advertising may be competitive, but the following is prohibited:

(a) Any representation that the veterinarian is a specialist in any specialty or veterinary medicine unless that veterinarian has been certified by a certifying board approved by the Kentucky Board of Veterinary Examiners and has furnished proof of such certification to the Board.

(b) Advertising which unwarrantedly alarms the public on animal health.

(c) Advertising which claims the use of any secret or special method of treatment which the veterinarian refused to divulge to the Kentucky Board of Veterinary Examiners.

(d) Advertising using code or special names for veterinary services or materials that have an established trade name where such coded or special names are deceptive to consumers. [Advertising which is informational and not deceptive is permitted, but is limited as follows:]

[(1) To informing the public of the availability of veterinary services and materials;]

[(2) Such advertisement may be by radio, television or any other medium.];

[(3) If additional charges may be incurred in the rendering of said advertised veterinary services for related services in individual cases, then the advertisement shall so state.]

[Section 9. In the absence of compelling reasons to the contrary, a minimum examination must be performed in all cases.]

[(1) In advertising a price for veterinary

services, a minimum examination must be performed for the price stated and the required minimum examination shall include the following:]

[(a) Complete case history from the owner or person requesting the veterinary services;]

[(b) Detailed physical examination of the animal as is necessary to diagnose and treat the complaint or condition.]

[(2) Advertising which is not in the public interest and which is prohibited shall include, but that is not limited to the following:]

[(a) Is false, fraudulent, deceptive, misleading or unfair;]

[(b) Any price advertising veterinary services or materials which are not effective for the period of time prescribed for the advertising of prices under KRS Chapter 367;]

[(c) Any representation that the veterinarian is a specialist in any specialty of veterinary medicine unless that veterinarian has been certified by a certifying board approved by the Kentucky Board of Veterinary Examiners, and has furnished proof of such certification to the board's satisfaction.]

[(d) Represents intimidation or undue pressure;]

[(e) Claiming or using any secret or special method of treatment which the veterinarian refused to divulge to the Kentucky Board of Veterinary Examiners;]

[(f) Using coded or special names for veterinary services of materials that have an established trade name where such coded or special names are deceptive to consumers.]

Section 2 [10]. It shall be improper for veterinarians to write testimonials as to the virtue of drugs, medicines, remedies or foods except to report the results of properly controlled experiments or clinical studies to interested veterinary organizations and associations.

Section 10 [11]. Every veterinarian engaging in the practice of veterinary medicine, veterinary surgery, and veterinary dentistry in this state shall keep adequate and sufficient records of the examination and treatment of all animals examined and treated so as to afford information relative to these matters to those persons entitled to see such information.

W. R. McGee, Chairman

APPROVED BY AGENCY: January 24, 1985

FILED WITH LRC: February 15, 1985 at 10:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on March 21, 1985 at 10 a.m. in Room 109, Capitol Building, Frankfort, Kentucky. Those interested in attending this hearing shall contact in writing: Dr. Donald L. Applegate, Executive Secretary, State Board of Veterinary Examiners, Route 2, Cranston Road, Morehead, Kentucky 40351.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Donald L. Applegate

(1) Type and number of entities affected: N/A

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: none

(6) Any additional information or comments:

Tiering:

Was tiering applied?

#### FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Examiners and Registration of Architects of Kentucky (Proposed Amendment)

201 KAR 19:035. Qualifications for examination.

RELATES TO: KRS 323.050, 323.060

PURSUANT TO: KRS 323.210

NECESSITY AND FUNCTION: To further define eligibility of applicants for admission to the examinations.

Section 1. Eligibility to Take the State Board Examination. (1) Any person who possesses the qualifications prescribed in KRS 323.050, and as further defined in other sections of these regulations, shall be eligible to take the examinations.

(2) It should be understood, however, that the education and experience required are more than mere vehicles to admission. These requirements and the examination are two (2) distinct exercises on the road to registration. Each supplements and sustains the other, but neither can replace the other as a vital part of professional training.

Section 2. General Requirements for Examination. Applicants for examination must meet the following requirements: (1) Must be a graduate of an accredited school of architecture, or the equivalent thereof; as determined by board regulations, with such additional experience as the board may prescribe and approve.

(2) Be a legal resident of the Commonwealth of Kentucky unless specifically exempted by the board therefrom for a justifiable reason.

(3) Be at least twenty-five (25) years of age.

(4) Be of good moral character. One (1) or more of the following may be sufficient to prevent an applicant from being considered to be of "good moral character:"

(a) Conviction of a felony.

(b) Chronic alcoholism, persistent drug abuse, or any such acts of behavior which would, if he were licensed, jeopardize or impair his judgment to meet his professional responsibility as an architect to the public welfare and safety.

(c) Submitting a misstatement or misrepresentation of facts in an application or in supplementary information.

(d) Violating any provision of KRS Chapter 323 or board rules and regulations either before or after admission to examination.

(e) Violating the registration law of any other state, territory, or country.

(5) The board will review and evaluate the candidate's record of education, employment, experience, personal character, professional affiliations, and civic activities.

(6) The applicant may, at the board's discretion, be asked to appear for a personal audience so that the board may have the opportunity to judge his general qualifications for the practice of architecture, his ethical precepts, his resourcefulness, initiative and purpose in seeking a career in architecture and his general talents therefor.

(7) The candidate must demonstrate to the board that his qualifications and preparation for examination are adequate.

Equivalencies Allowed. (1) A graduate from an accredited school of architecture shall, in addition thereto, have at least three (3) years of architectural experience satisfactory to the board. In general, an applicant who does not hold a degree from an accredited school of architecture will be required to have two (2) additional years of satisfactory experience for each calendar year of deficiency in architectural education, or a total of twelve (12) years.

(2) To be eligible for examination an applicant must present authentic evidence, by means of college transcripts and letters from employers, architects and other that he has met all the requirements noted in other sections and that he has had well diversified and satisfactory training in the many areas of architectural practice.

(3) In order to give the applicant a better understanding of the time and nature of the required experience, including related types of work which may be applied thereto, the board has adopted the following [NCARB] "Table of Equivalents for Education, Training and Experience" as a guide; [A copy is included with each request for application forms, or may be obtained individually from the board office. The current edition shall apply.]

### Section 3. Experience Required and

TABLE OF EQUIVALENTS FOR EDUCATION, TRAINING AND EXPERIENCE

<u>Experience Description</u>	<u>Education Credits</u>			<u>Training Credits</u>	
	<u>First 2 Years</u>	<u>Succeeding Years</u>	<u>Max. Credit Allowed</u>	<u>Credit Allowed</u>	<u>Max. Credit Allowed</u>
<u>A-1 First professional degree in architecture, or credits toward the first professional degree, where the degree program has been accredited by the National Architectural Accrediting Board ("NAAB") not later than two (2) years after termination of enrollment</u>	<u>75%</u>	<u>100%</u>	<u>5 years</u>		
<u>A-2 First professional degree in architecture, or credits toward that degree, where the degree program has not been accredited by NAAB</u>	<u>75%</u>	<u>75%</u>	<u>4 years</u>		
<u>A-3 Bachelor degree, or credits toward that degree, in architectural engineering, architectural technology, or in civil, mechanical, or electrical engineering, accredited by the Engineers' Council for Professional Development or the Accreditation Board for Engineering and Technology, or in interior architecture, accredited by the Foundation for Interior Design Education Research</u>	<u>50%</u>	<u>75%</u>	<u>3 years</u>		



ADMINISTRATIVE REGISTER - 1275

A-4 Any other bachelor degree			<u>2 years</u>		
A-5 Experience, directly related to architectural work, as an employee in the offices of registered architects	<u>50%</u>	<u>50%</u>	<u>5 years</u>	<u>100%</u>	<u>no limit</u>
A-6 Experience, practicing as a principal, with a verified record of substantial practice, directly related to architectural work	<u>50%</u>	<u>50%</u>	<u>5 years</u>	<u>100%</u>	<u>no limit</u>
A-7 Experience as an employee of an organization (other than offices of registered architects) when the experience is directly related to architectural work and is under the direct supervision of a registered architect	<u>50%</u>	<u>50%</u>	<u>4 years</u>	<u>100%</u>	<u>2 years</u>
A-8 Experience as an employee of an organization (other than offices of registered architects) when the experience is directly related to architectural work, and is under the direct supervision of a professional engineer, landscape architect, interior designer, or planner	<u>0</u>			<u>50%</u>	<u>1 year</u>
A-9 Experience, other than A-5, A-6, A-7 or A-8 experience, directly related to on-site building construction operations or experience involving physical analyses of existing buildings	<u>0</u>			<u>50%</u>	<u>6 months</u>
A-10 A Master or Doctoral degree in architecture (except where the degree is the first professional degree)	<u>0</u>			<u>100%</u>	<u>1 year</u>
A-11 Teaching or research in an NAAB accredited architectural program	<u>0</u>			<u>100%</u>	<u>1 year</u>
A-12 Other Education or Training Experience	<u>0</u>			<u>100%</u>	<u>1 year</u>

(4) For purposes of interpreting the "Table of Equivalents for Education, Training and Experience," Education Credits shall be subject to the following conditions:

(a) No education credits may be earned prior to graduation from high school.

(b) Applicants with the degree specified in A-1 through A-4 will be allowed the credit shown in the Maximum Credit Allowed column, regardless of the length of the degree program. Applicants without the degree specified in A-1 or A-2 may not accumulate more than three (3) years of education credits in the aggregate from all degree programs.

(c) Thirty-two (32) semester credit hours or forty-eight (48) quarter credit hours are considered to be one (1) year. Fractions of a year of one-half (1/2) or greater will be

considered one-half (1/2) year, and smaller fractions will not be counted.

(d) Foreign education credits will be granted only under classifications A-2 and A-4. Any cost of translation and evaluation will be borne by the applicant.

(5) For purposes of interpreting the "Table of Equivalents for Education, Training and Experience," Training Credits shall be subject to the following conditions:

(a) No training credits may be earned prior to accumulating two and one-half (2 1/2) education credits.

(b) Every applicant must earn at least one (1) year of training credit under A-5 or A-6 and must earn it after earning five (5) years of education credits.

(c) To earn credit under A-10 or A-11, an

applicant's credit hours must be in subjects evaluated by NCARB as directly related to architecture. Twenty (20) semester credit hours or thirty (30) quarter credit hours of teaching or equivalent time in research will equal one (1) year.

(d) No credit used as an education credit may be used as a training credit.

(e) Organizations will be considered to be "offices of registered architects" if:

1. The architectural practice of the organization in which the applicant works is in the charge of a person practicing as a principal and the applicant works under the direct supervision of a registered architect; and

2. The organization is not engaged in construction; and

3. The organization has no affiliate engaged in construction which has a substantial economic impact upon the person or persons in the organization practicing as a principal.

(f) An organization (or an affiliate) is engaging in construction if it customarily engages in either of the following activities:

1. Undertakes to provide labor and/or material for all or any significant portion of a construction project, whether on lump sum, cost plus or other basis of compensation, or

2. Agrees to guarantee to an owner the maximum construction cost for all or any significant portion of a construction project.

(g) A person practices as a "principal" by being

1. A registered architect; and

2. The person in charge of the organization's architectural practice, either alone or with other registered architects.

(6) For purposes of interpreting the "Table of Equivalents for Education, Training and Experience," the following general evaluation criteria shall be used:

(a) To earn full education or training credits under A-5, A-6, A-7, A-8 and A-9 an applicant must work at least thirty-five (35) hours per week for a minimum period of ten (10) consecutive weeks under A-5 or six (6) consecutive months under A-6, A-7, A-8 or A-9. An applicant may earn one-half (1/2) the credit specified under A-5 for work of at least twenty (20) hours per week in periods of six (6) or more consecutive months; no credit will be given for part-time work in any category other than A-5.

(b) Other education and training may be substituted for the requirements outlined above, only insofar as the board considers them to be equivalent to the required qualifications.

(c) In evaluating credits, the board requires substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical education and training requirements set forth above.

(7) [(4)] Training and experience acquired up to one (1) month prior to the month of the examinations if supported by supplementary documentation may be counted as credit.

[Section 4. The provisions of this regulation shall be effective January 1, 1983.]

DONALD Q. WALLACE, President

APPROVED BY AGENCY: December 18, 1984

FILED WITH LRC: February 14, 1985 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on March 26, 1985 at 2 p.m. at the office of the State Board of Examiners and Registration of Architects, 2216 Young Drive, Lexington, Kentucky 40505. Those interested in attending this hearing shall contact in writing: L. Wayne Tune, Executive Director, State Board of Examiners and Registration of Architects, P. O. Box 22097, Lexington, Kentucky 40522.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: L. Wayne Tune

(1) Type and number of entities affected: N/A

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: N/A

Tiering:

Was tiering applied?

#### FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Examiners and Registration of Architects of Kentucky (Proposed Amendment)

201 KAR 19:095. Professional practice standards; violations, penalties.

RELATES TO: KRS 323.095, 323.120

PURSUANT TO: KRS 323.210

NECESSITY AND FUNCTION: To define basis for board to proceed against architects for unprofessional practice.

Section 1. Penalties for Unprofessional Practice. (1) The board may refuse to renew or may suspend for a period or revoke any license, or forbid practice by any architect for any of the following reasons:

(a) Gross incompetency or gross negligence.

(b) Unprofessional conduct or conduct tending to bring the profession into disrepute.

(c) Conviction of a felony.

(d) Fraudulent or dishonest architectural practice.

(e) Use of false evidence, or

misrepresentation in an application for licensing.

(f) Signing or affixing his seal to any plans, prints, specifications for buildings, or reports which have not been prepared by him personally or by his employees under his supervision.

(2) The procedure for such action shall be in accordance with the provisions of KRS 323.130 and 323.140.

Section 2. Gross Incompetence and Gross Negligence Defined. The following acts or omissions shall be deemed to be gross incompetence or gross negligence within the meaning of the law and be cause for denial, suspension or revocation of a license:

(1) Willfully failing to use reasonable care and diligence in his professional practice, resulting in a building or structure being improperly constructed to the detriment of the occupants.

(2) Willfully failing to use reasonable care and diligence in preparing drawings, specifications, and other documents relating to the design and construction of buildings for the protection of a client in all relationships as agent of the client.

Section 3. Unprofessional Conduct Defined. Any of the following acts by an architect shall be deemed to be "unprofessional conduct" and be cause for denial of registration, or suspension, revocation or refusal to renew a license to practice architecture:

(1) Accepting compensation for architectural services from other than his client or employer.

(2) Offering or making any payment or gift to a government official (whether elected or appointed) with intent of influencing the official judgment in connection with a prospective or existing project in which the architect is interested.

(3) Offering or making any gifts, except gifts of nominal value (including, for example, reasonable entertainment and hospitality), with intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

(4) Soliciting or allowing [self-laudatory, exaggerated,] misleading, deceptive, or false publicity or material claims of superiority that cannot be substantiated to be disseminated in any publication.

(5) Having a financial interest in the manufacture, sale or installation of any component or process used in a project for which he is the architect unless his client has been so advised and has waived any objection he may have had thereto.

(6) Publicly endorsing a product, system, or service, or permitting the use of his name or photograph to imply such endorsement. However, he may be identified with any product, system, or service designed or developed by him.

(7) Engaging an agent or representative to solicit work on his behalf whose compensation is either unreasonable or contingent, in whole or in part, upon obtaining professional work for the architect.

(8) Using paid advertising on behalf of himself, his partner, associate, or any other architect affiliated with him or his firm, containing a statement or claim which is false

or tends to be misleading, deceptive, or unfair, or which makes material claims of superiority which cannot be substantiated rather than being designed to inform the public [except as allowed in this subsection].

(a) Advertising may include the name of the architect or firm, address, telephone number, a statement of the fields of practice, and a statement of the geographical area where services are rendered, and cost of services. [An individual architect or an architectural firm may advertise its services as authorized by these regulations, and not otherwise. Such advertisement shall be confined to the name of the firm, address, telephone number, a statement of the fields of practice in which qualified, and cost of services. It may be printed in a regularly published newspaper, magazine, directory, or similar publication or may be read by an unidentified person on radio or television.]

(b) An architect or architectural firm which advertises a fee for specific services and accepts such employment must perform such services for the amount stated, and a statement to that effect shall be included in every advertisement.

(c) Advertisements may be by newspaper or magazine advertisements, radio or television announcements, or display advertisements in the city or telephone directories.

Section 4. Conviction of a Felony. Any conviction of a felony within the United States of America or its possessions is prima facie evidence of misconduct.

Section 5. Fraudulent or Dishonest Practice Defined. The following practices shall be deemed to be "fraudulent or dishonest practice" within the meaning of the law and be cause for denial, suspension or revocation of a license to practice architecture:

(1) Making untrue or deceitful statements in an application for examination or registration, or in any other statements or representations to the board.

(2) Affixing his seal to any drawings other than those for which he is the author. All plans must be sealed by the author or authors thereof. "Authors" is defined as those in responsible charge of the preparation of plans which are made by them personally or under their supervision.

(3) Bribing any person or persons who may influence the selection of an architect.

(4) Willfully misleading or defrauding any person or persons employing him as an architect.

(5) Willfully violating the laws of Kentucky or any other state, where such are applicable, relating to the practice of architecture; or willfully violating any rule or regulation of this board made in pursuance to law.

(6) Using, or attempting to use, or practicing under, a license that has been suspended or revoked or which has not been renewed as required by law and the regulations of the board.

Section 6. Registration While Working for Others. (1) An architect may work as the employee of another architect without affecting the status of his registration.

(2) Or he may work as an employee for any firm in which his duties are not those of any

architect, without affecting the status of his registration. But if he works as an architect for, or with, an individual not an architect, or a firm or corporation not under the control of architects, then he must maintain free and unbiased judgment and unrestrained use of his professional prerogatives and services to clients; and the terms of his employment or agreement shall be compatible therewith, and such as to permit full compliance with the "obligations of practice," and these regulations.

(3) Violations of these requirements shall be cause for a license to be denied, suspended or revoked.

Section 7. Office Staffing. (1) A firm, partnership, or association maintaining one (1) or more places of business in this state, except where a project office is established only for on-site supervision or inspection, shall maintain in charge of each separate place, a resident registered architect; "resident" as used in this section shall mean the architect or architects who spend the majority of the normal office hours in said place of business. The firm, partnership, or association shall inform the board of the name or names of the resident architect or architects in charge of each separate place of business.

(2) Violations of this requirement shall be cause for a license to be denied, suspended or revoked.

DONALD Q. WALLACE, President

APPROVED BY AGENCY: December 18, 1984

FILED WITH LRC: February 14, 1985 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on March 26, 1985 at 2 p.m. at the office of the Board of Examiners and Registration of Architects of Kentucky, 2216 Young Drive, Lexington, Kentucky 40505. Those interested in attending this hearing shall contact in writing: L. Wayne Tune, Executive Director, State Board of Examiners and Registration of Architects, P. O. Box 22097, Lexington, Kentucky 40522.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: L. Wayne Tune

(1) Type and number of entities affected: N/A

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in

conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: N/A

Tiering:

Was tiering applied?

#### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Division of Waste Management

(Proposed Amendment)

401 KAR 30:070. Reference documents.

RELATES TO: KRS 13A.130, 13A.190, 224.005, 224.033, 224.830 through 224.889, 224.994

PURSUANT TO: KRS 13A.210, 224.033

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to promulgate regulations for the management of solid and hazardous wastes. This chapter establishes the general administrative procedures which are applicable to 401 KAR Chapters 30 through 49. This regulation incorporates by reference as provided under 1 KAR 1:010 essential documents used in connection with the waste management regulations.

Section 1. Documents Incorporated by Reference. The documents listed in subsections (1) through (8) [and (2)] of this section are adopted and filed herein by reference. Copies of these documents may be obtained from the Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

[(1) "Guidelines for Landspreading of Solid Waste," (1982).]

[(2) Waste Management Policy Number:]

(1) [(a)] Waste Management Policy I.2.a., "Closure of Permitted Solid Waste Sites," (July 29, 1983).

(2) [(b)] Waste Management Policy IV.1.a., "Sampling Procedure-Splitting Samples," (September 15, 1983).

(3) [(c)] Waste Management Policy VI.1.a., "Definition of Waste-Fuel Exemption," (October 26, 1983).

(4) [(d)] Waste Management Policy VI.1.b., "Regulatory Interpretation: Sham Recycling," (April 6, 1984).

(5) [(e)] Waste Management Policy VI.1.c., "Regulatory Interpretation: Mixture of "F" Listed Solvents," (April 6, 1984).

(6) [(f)] Waste Management Policy VI.1.c., "Regulatory Interpretation: EPA Guidance on K061 Listing," (April 6, 1984).

(7) [(g)] Waste Management Policy VI.1.e., "Regulatory Interpretation: Plating Waste Generators," (April 6, 1984).

(8) [(h)] Waste Management Policy VI.1.f. (AMENDMENT), "Regulatory Interpretation: Empty Containers," (July 9, 1984).

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing has

been scheduled in the Capital Plaza Tower, Frankfort, Kentucky on March 28, 1985, at 1:00 p.m. EST. Persons interested in attending this public hearing shall contact: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, KY 40601. The written comment period will close at 4:30 p.m. on March 28, 1985.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director  
Division of Waste Management

(1) Type and number of entities affected:  
Permitted Landfarming Facilities: 36

Wastewater Treatment Plants: 3,580

(a) Direct and indirect costs or savings to those affected:

1. First year: None. The "Guidelines for Landspreading of Solid Waste" have been removed from this regulation. Applicable requirements from this regulation. Applicable requirements from the deleted document are proposed to be adopted in 401 KAR 47:020 and 47:050. However, deletion of this document will not result in a cost or savings to those affected.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. See Note in (1)(a)1.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None. There will be no effect on state or local revenues resulting from removal of the "Guidelines for Landspreading of Solid Waste."

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The "Guidelines for Landspreading of Solid Waste" have been removed from the solid waste regulations.

ALTERNATIVE: 1. Less Stringent: There are no alternatives less stringent than removal of this document from the regulations. 2. More Stringent: The document could have been retained in the regulations. This alternative was rejected because some of the requirements are no longer applicable and to retain the document would have resulted in confusion by the regulated entities. 3. Present Proposal: The Division chose to remove this document from the regulations because it is no longer applicable.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable

NATURAL RESOURCES AND ENVIRONMENTAL  
PROTECTION CABINET  
Department for Environmental Protection  
Division of Waste Management  
(Proposed Amendment)

401 KAR 47:020. Solid waste permit process.

RELATES TO: KRS 224.005, 224.830 through 224.860, 224.868, 224.869, 224.994, 224.995  
[224.835, 224.842, 224.846, 224.855]

PURSUANT TO: KRS 13A.210 [13.082, 13.083, 224.017], 224.033[(24)]

NECESSITY AND FUNCTION: KRS 224.855 specifies minimum requisites for issuance of waste disposal permits, and KRS 224.835 and 224.842 prohibit use or operation of a waste disposal site or facility without first obtaining a permit from the Natural Resources and Environmental Protection Cabinet. The cabinet is authorized by KRS 224.033 to promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet. This chapter establishes standards for solid waste sites or facilities. This regulation specifies the general requirements for all solid waste disposal permits.

Section 1. General Requirements for Permitting. (1) No person or state or federal agency shall engage in the disposal of solid waste without having first obtained a permit, permit by rule or a variance from the cabinet.

(2) A permit shall authorize the owner/operator to engage in the disposal of solid waste in a manner prescribed by the cabinet for a period of not more than five (5) years from the date of issuance or renewal.

(3) The permit shall confer upon the owner/operator a qualified right to dispose of solid waste, but shall not relieve the owner/operator of responsibility to comply with all applicable federal, state and local laws and regulations, including but not limited to the Clean Water Act (33 U.S.C. 1251), the Safe Drinking Water Act (42 U.S.C. 7041), the Occupational Safety and Health Act (29 U.S.C. 651), [and] the Endangered Species Act (16 U.S.C. 1530), and the Resource Conservation and Recovery Act (42 U.S.C. 6901), as amended.

(4) The permit shall be issued in the name of the applicant, and shall be non-transferable without written approval by the cabinet. Any successor operator prior to the final closure of the facility whether by sale, assignment, lease or otherwise may be required to submit an application or independently provide financial responsibility for closure or both.

(5) Disposers of certain industrial wastes which are solid wastes by a practice common to the industry are presumed to hold a permit and can operate pursuant to this permit by rule provided the operation is not in violation of the applicable "Environmental performance standards" of 401 KAR 30:030, and does not present a threat of imminent hazard to the public health or substantial environmental impact.

(a) A permit by rule is hereby granted for the following disposal facilities or practices:

1. Sawdust piles.

2. Disposal of asphalt residue.

3. Oil production brine pits, and gas and oil drilling mud pits.

4. Disposal of septic tank pumpings by a properly registered septic tank pumping hauler.

5. Disposal of waste from the mining, processing or primary beneficiation of ores and minerals.

6. Operation of a solid waste incinerator excluding the disposal of the residue from the incinerator.

7. Junkyards.

8. Pits, ponds and lagoons permitted by other environmental programs in the cabinet for the disposal of residual waste from pollution control devices.

9. One (1) time construction material fills at the place of generation.

10. Beneficial reuse or recycling of solid waste except for wastes [sludges] regulated by 401 KAR 47:050.

11. Inert disposal site of less than one (1) acre.

12. Disposal of demolition waste on the property where demolition occurred.

13. Disposal of land clearing debris on the property where clearing occurred.

(b) A permit by rule can be granted by the cabinet for the disposal of insignificant amounts of a specific industrial waste. Any request for a permit by rule may be granted after evaluation by the cabinet of the following criteria:

1. Size of the disposal site or facility.

2. Potential for adverse effects on health and the environment as identified in the "Environmental performance standards," 401 KAR 30:030.

3. Quantity of waste generated.

4. Chemical and physical characteristics of the waste including reactivity and explosivity.

5. Hydrogeological and geologic characteristics of the facility including the topography of the area and the proximity to surface waters.

6. Method of disposal.

(c) A permit by rule may be granted by the cabinet for the landfarming of specified solid waste as defined in 401 KAR 47:050, Section 1(2).

Section 2. Considerations of Federal Law. Permits shall be issued in a manner and shall contain conditions consistent with requirements of applicable federal laws. These laws may include:

(1) The Wild and Scenic Rivers Act. 16 U.S.C. 1273 et seq. Section 7 of the Act prohibits the assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.

(2) The National Historic Preservation Act of 1966. 16 U.S.C. 470 et seq. Section 106 of the Act and implementing regulations (36 CFR Part 800) require the adoption measures before issuing a license, when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(3) The Endangered Species Act. 16 U.S.C. 1531 et seq. Section 7 of the Act and implementing

regulations (50 CFR Part 402) require that in consultation with the Secretary of the Interior or Commerce, any action authorized is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(4) The Fish and Wildlife Coordination Act. 16 U.S.C. 661 et seq. requires that, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion or other control or modification of any body of water, consult with the appropriate state agency exercising jurisdiction over wildlife resources to conserve those resources.

Section 3. Issuance of Permit. (1) The cabinet shall issue a construction permit, if after completing a technical review of the administratively complete application, it finds that the person or state or federal agency desiring the permit has met all the requirements for application and the requirements of KRS 224.855, and has the ability to meet the operational and closure requirements of the solid waste regulations. An application for a permit may be denied or an active permit revoked for failure to comply with applicable state statutes or regulations, including but not limited to any failure to provide or maintain adequate financial responsibility.

(2) No construction permit shall be issued until at least thirty (30) days have expired following publication of a notice of application as required under KRS 224.855. A verified affidavit from the publisher of the notice, establishing the date of publication, shall be received by the cabinet before a construction permit is issued. This publication shall be made after the owner/operator receives written notice that the cabinet has completed the technical review of the application.

(3) An operational permit shall be issued by the cabinet when:

(a) The applicant notifies the cabinet, in writing, that construction has been completed;

(b) A representative of the cabinet inspects the site and verifies in writing that the site has been developed according to plans and that necessary equipment is available to the site; and

(c) The required financial responsibility for closure has been established, by posting a bond or establishing an escrow account as required by KRS 224.846 in an amount of \$10,000 or greater if so determined by an approved closure plan and cost estimate. The approved cost estimate for closure and corresponding bond shall be reviewed and adjusted at least once every five (5) years.

(4) The cabinet shall make a determination whether an application is complete within thirty (30) days of receipt. The cabinet shall act on the complete permit application within ninety (90) days of receipt or shall, within that time period, inform the applicant of a projected schedule for review.

(5) The cabinet may issue a permit subject to special conditions which include but are not limited to types of wastes which may be accepted or disposed, special operating conditions, schedules for compliance for corrective actions, and the issuance of other applicable permits of the cabinet.

Section 4. Copies and Display of Permits and Application. (1) The applicant shall submit one

(1) copy of all information required for review of the permit application to the cabinet.

(2) When review is complete the applicant shall provide the cabinet with at least three (3) copies of the final application for formal certification and issuance of the permit document.

(3) One (1) copy shall be returned to the permittee and the permit with all applicable conditions shall be conspicuously displayed at the solid waste site or facility, with the exception of landfarming sites, for the duration of the permit. A copy of the approved application including plans shall be reasonably available at the site.

#### Section 5. Termination and Renewal of Permit.

(1) A permit shall automatically terminate at the end of five (5) years. A shorter period may be specified. Permit by rule shall be perpetual until modified, revoked, or suspended by the cabinet.

(2) A permit may be renewed. Renewal requests shall be made in writing to the cabinet not less than sixty (60) days prior to the permit expiration date and shall include any changes or modifications in the approved plan of operation for the facility.

(3) The cabinet, in issuing a renewal, shall consider whether all conditions of the original permit and modifications of permit conditions by agreed order or otherwise are being met. The cabinet may request updated information necessary for re-evaluating the permit's suitability for reissuance and impose additional or modified permit conditions if deemed appropriate.

Section 6. Modification of Operating Methods or Proposed Closure by Owner/Operator. (1) The owner/operator shall submit in writing to the cabinet for preliminary review any proposed change in the approved closure and other plans or any proposed change in the operating methods. "Any change" includes but is not limited to any additional wastes not listed at the time of the original permit issuance or any other request for a variance from existing permit requirements.

(2) Permit modifications for specific waste streams may be granted upon proper request made by either the disposal facility or the waste generator.

(3) The cabinet shall notify the owner within thirty (30) days if the modification will require prior administrative analysis and review and the payment of a fee, or if further information is required before the modification, change, or variance can be approved or denied. The cabinet will respond to the request within thirty (30) days of receipt of all applicable fees and information with a letter of acknowledgement, issuance of a variance or issuance of a permit modification as appropriate.

(4) The owner/operator shall not proceed with the proposed closure or change in operating methods without written approval of the cabinet.

Section 7. Repealer and Effective Dates. (1) The regulations in 401 KAR Chapter 47 supersede solid waste regulation 401 KAR 2:010.

(2) Existing permitted solid waste disposal sites classified as landfills under 401 KAR 2:010 will be classified as inert landfills on March 1, 1983 [upon the effective date of this

regulation]. Existing permitted solid waste disposal sites classified as sanitary landfills under 401 KAR 2:010 will be classified as residential landfills on March 1, 1983 [upon the effective date of this regulation]. Existing facilities thus classified will not be required to meet the design, location and construction standards of 401 KAR 47:040 provided that they are in compliance with the "Environmental performance standards" of 401 KAR 30:030. Those existing facilities desiring to request a different classification will be required to meet the changed requirements for location, design or construction before the modification in classification is approved by the cabinet.

(3) All persons subject to the solid waste regulations shall meet the March 1, 1983, [changed] solid waste facility operating standards by August 28, 1983 [within 180 days of the effective date of the regulations].

CHARLOTTE E. BALDWIN, Secretary

ADOPTED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled in the Capital Plaza Tower, Frankfort, Kentucky on March 28, 1985, at 1 p.m. EST. Persons interested in attending this public hearing shall contact: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The written comment period will close at 4:30 p.m. on March 28, 1985.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber

(1) Type and number of entities affected: Permitted Landfarming Facilities: 36; Wastewater Treatment Plants: 3,580

(a) Direct and indirect costs or savings to those affected:

1. First year: The changes made to this regulation will not result in a cost or savings to those affected. The changes made to this regulation include language to make this regulation consistent with changes proposed concurrently in 401 KAR 47:050, Landfarming.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None. See Note in (1)(a)1.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None. There will be no effect on state or local revenues because the changes being made to this regulation include only language to make this regulation consistent with changes proposed concurrently in 401 KAR 47:050, Landfarming.

(4) Assessment of alternative methods; reasons why alternatives were rejected: There were no substantive changes made to this regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable.

**NATURAL RESOURCES AND ENVIRONMENTAL  
PROTECTION CABINET**  
Department for Environmental Protection  
Division of Waste Management  
(Proposed Amendment)

**401 KAR 47:050. Landfarming.**

RELATES TO: KRS 224.005, 224.830 through 224.860, 224.868, 224.869, 224.994 [224.255, 224.842, 224.855]

PURSUANT TO: KRS 13A.210 [13.082, 224.017], 224.033(24)]

NECESSITY AND FUNCTION: KRS 224.033 [224.017] and the waste management provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to adopt regulations for the disposal of solid waste. This chapter establishes standards for solid waste sites or facilities. This regulation sets forth the permit application requirements and general design and operating requirements for landfarming facilities.

Section 1. Applicability. (1) The requirements in this regulation apply to the owners and operators of all facilities which dispose of solid waste by landfarming.

(2) A permit-by-rule may be granted for the landfarming of a maximum of 10,000 gallons or 1,000 pounds (dry weight) each year, whichever is less, provided that: the solid waste is generated by wastewater treatment facilities with a design treatment capacity of less than 100,000 gallons per day, or the solid waste is generated by the food service industry; and has a concentration less than the parameters indicated in Table 1.

**Table 1**  
**Maximum Concentrations for Wastes**  
**Permitted by Rules**

Parameter	Maximum Concentration (mg/kg dry weight)
Cadmium	30
Copper	900
Lead	1000
Nickel	100
Zinc	1800

(a) Annual waste analyses contained in Section 6(7) of this regulation shall be submitted to the cabinet for solid wastes generated by wastewater treatment facilities with a design treatment capacity greater than 50,000 and less than 100,000 gallons per day as a condition for receiving the permit-by-rule.

(b) Failure to submit the required analyses or any violation of the environmental performance standards in 401 KAR 40:030 shall be grounds for revoking the permit-by-rule.

(c) Requests for a permit-by-rule shall be in

a manner prescribed by the cabinet and shall contain the following information:

1. Name(s) and address(es) of the waste generator(s).

2. A written description of the proposed disposal site to include: the current land use; potential for flooding; soils; distance to any wells, houses, roads or other manmade structures; and, a current U.S. Geological Survey Topographic Map identifying the location of the proposed site.

3. A description of the source(s) of the solid waste and analyses of the waste(s) as specified in Section 6(7) of this regulation.

4. Annual application rates per acre in gallons for liquid wastes and dry tons for semi-solid and solid wastes as determined by the procedures specified in Section 5 of this regulation.

5. A description of the application method and equipment to be utilized, including their individual capacities.

6. A description of the method and equipment, including their individual capacities, to transport the solid waste from each point of generation to the proposed site.

(3) A permit-by-rule may be revoked if analyses over a two (2) year period result in an average concentration exceeding any of the maximum limits contained in Table 1, or the concentration level of any one (1) analysis exceeds any of the maximum limits contained in Table 1 by twenty (20) percent or more.

(4) The requirements of this regulation do not apply to any person who treats and disposes of hazardous waste in a land treatment unit under 401 KAR Chapters 34 or 35.

Section 2. [1.] Contents of Permit Applications. A person or state or federal agency desiring a landfarming facility permit shall submit a complete application to the cabinet. Such applications shall be on a form and presented in a manner prescribed by the cabinet, and shall include, but not be limited to the following:

(1) Names, addresses and telephone numbers of the landowner, applicant and waste generators [sources]. If the applicant is a government agency, corporation, company or partnership, include the name, [and] address and telephone number of process agent or other contact individual.

(2) A written description of the location and address of the proposed landfarming site.

(3) A copy of the deed to the property or [and] a copy of the proposed lease if the landowner is not the applicant.

(4) A geological report of the site, including: [Written certification from the county judge/executive or chairman of the local planning and zoning board that the site meets all local planning and zoning requirements.]

(a) A physical description of soils in the uppermost five (5) feet identifying the soil texture, erodibility available moisture capacity permeability, pH, and cation exchange capacity (CEC);

(b) A delineation of soil by series on a U.S. Soil Conservation Service soils map, or on a map prepared by the soil conservation officer or a soil scientist;

(c) A description of the surface and subsurface geology including depth to bedrock,



seasonal high groundwater table, karst formations, and names and descriptions of geologic formations; and

(d) An assessment of potential hazards to surface and groundwaters.

(5) A description of the wastes to be disposed, including: [A soils analysis interpreted for landspreading including:]

(a) The type, generator(s), and total estimated quantity of waste per year to be disposed; [A physical description of the soil including type, texture, series, erodibility, and permeability in the most restrictive layer within five (5) feet of the surface.]

(b) A brief description of stabilization methods utilized to reduce volatile solids and pathogens; and [A chemical analysis of the soil including pH, cation exchange capacity (CEC), and an analysis for fertilizer recommendations.]

(c) A physical and chemical analysis including: percent total solids; volatile solids; total potassium; total phosphorus; total nitrogen; ammonium nitrate (NH<sub>4</sub>-N); nitrates (NO<sub>3</sub>-N); pH; and the amount of cadmium, copper, nickel, zinc, lead, chromium, polychlorinated biphenyls (PCB) and any other persistent organics in micrograms per kilogram. [Written recommendation of the county agricultural extension agent or comparable authority for fertilizer requirements of the proposed site based on soil tests.]

[(6) A physical and chemical analysis of the waste to be disposed at the site including moisture content, nutrient levels, pH, heavy metals content, polychlorinated biphenyls (PCB's) present, and any other toxic organics.]

[(7) A U.S. Soil Conservation Service soils map or the equivalent;] An original, current U.S.G.S. topographic map with contour intervals at ten (10) feet or less [showing location of the permit area; and an enlarged, current U.S.G.S. topographic map] at a minimum scale of one (1) inch to 400 feet showing the following:

(a) The property lines and the boundaries of the proposed site [to be covered by the permit].

(b) The proposed application zone and subplots within the application zone equal to the area that would be covered in a single application as determined by the application rates in Section 6 of this regulation and the maximum capacity of the landspreading equipment to be utilized. [Buffer zones and proposed application area.]

(c) Access and proposed or existing internal roads.

(d) Blue-line and intermittent streams, areas of standing water such as lakes, ponds or marshes, and sinkholes at the site and [Surface water] within 1000 feet of the proposed site boundary [including boundaries of the 100-year floodplain].

(e) All existing man-made features within 1000 feet of the proposed site boundary including structures, public roads, utilities and water wells.

(f) The boundaries of the ten (10) year floodplain. [Proposed structures including storage buildings or facilities, sheds and sanitary facilities.]

(g) The delineation of existing surface water drainage, and existing or proposed run-off/run-on, and erosion control structures.

[(h) Existing or proposed access control.]

[(8)] The complete application narrative

[which] shall include:

(a) A description of the application method(s), equipment, and transportation method from the point of generation to the proposed site; [Source and total estimated quantity of sludge or other residual waste to be disposed at the proposed facility.]

(b) Waste storage provisions to be utilized during adverse weather conditions or equipment breakdowns; [Projected capacity including number of acres to be permitted and estimated life of the facility and projected application period in years.]

(c) Annual application rates per acre in gallons for liquid wastes and dry tons for semi-solid and solid wastes as specified in Section 5 of this regulation; [A brief description of the waste including origin, method of stabilization, composition and any other pertinent information.]

(d) The cropping program for each subplot and the schedule of waste application for each subplot for five (5) years from the date of permit issuance; [Application method(s) including a description of the process, equipment to be used, labor required and waste storage holding provisions during adverse weather conditions or equipment breakdown.]

(e) A description of the proposed site including any previous waste applications and existing and future land uses at the proposed site; [Application rates and schedules, including depth to which waste will be spread or quantity to be injected, in terms of quantity per acre per year, and maximum liquid application rate in terms of volume per unit area per hour.]

(f) Written recommendations of the county agricultural extension agent or a comparable authority for fertilizer and soil amendment recommendations needed based on the soils and sludge analysis and the crops to be grown; and [Site description including previous waste applications to the site, future use of the land, proposed crops or vegetation, slopes, proximity of surface waters, water wells and man-made features.]

(g) Written certification from the chairman of the local planning and zoning board that the site meets all local planning and zoning requirements. In the absence of a local planning and zoning board, a written certificate from the county judge/executive shall be required stating that the site complies with all laws within the jurisdiction of the county. [Geology of the proposed site including depth to bedrock, names and descriptions of geologic formations and geologic characteristics including karst features.]

[(h) Description of run-off and run-on control provisions, access control provisions and proposed soil amendments, if necessary.]

[(i) Proposed monitoring program for waste, soil, groundwater and surface water quality.]

[(j) A detailed plan for closure of the site including closure cost estimates.]

Section 3. [2.] Siting Considerations [General Design Requirements.] (1) Application zones for the disposal of solid waste shall not be located in the ten (10) year floodplain. Where available, published floodplain maps shall be used to determine the frequency of flood exposure. Where maps are not available, the

frequency of flood exposure shall be established by the unit hydrograph technique. [Facility locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.]

(2) The application zone shall have a minimum of four (4) feet between the deepest part of the application zone and both the seasonal high water table and bedrock. [Facilities in the 100-year floodplain shall be designed and operated to prevent the washout of wastes. Further, they shall not restrict the flow of the 100-year floodplain or reduce the temporary water storage capacity of the floodplain or increase the likelihood of flooding. Where available, empirical data shall be used to determine the frequency of flood exposure. Where data is not available, the frequency of flood exposure shall be established by the unit hydrograph technique.]

(3) Buffer zones in accordance with Table 2 shall be maintained:

Table 2  
Required Buffer Zones

Structure or Object	Minimum Distance in Feet From the Boundary of the Application Zone		
	Surface Injection	Surface Application with Incorporation Within 2 Hours	Spraying Under Pressure
Residences & occupied Bldgs.	250	500	1000
Drinking water well	250	500	1000
Surface water body	250	500	1000
Blue-line stream	250	500	1000
Sinkholes	250	500	1000
Public road	30	50	100
Intermittent stream	30	50	100
Property line	30	50	100

[Surface contours shall minimize run-off/run-on onto or through the operational or completed area of the facility. Surface storm water features shall be designed for 100-year twenty-four (24) hour storm flows.]

(4) Surface water or waste ponding within the application zone shall be prohibited. [The applicant shall provide such additional information as the cabinet deems necessary for a determination regarding the issuance of a permit.]

(5) Surface run-off shall be controlled to minimize the possibility of applied waste run-off and contamination of nearby surface water or adjacent land areas. Run-on from adjacent land shall be diverted. [Other requirements may be stipulated according to the "Guidelines for Landspreading of Solid Waste" published by the cabinet in order to ensure compliance with the "Environmental performance standards" in 401 KAR 30:030, Section 1(1).]

(6) Waste application shall not be located on soils with a permeability rate greater than twenty (20) inches per hour or less than two-tenths (0.2) inches per hour.

(7) Soil pH shall not be less than six and

five-tenths (6.5) at the time of application.

(8) The surface injection or surface application with incorporation of waste shall be prohibited on slopes greater than eight (8) percent when slope length is greater than 200 feet, and greater than twelve (12) percent when slope length is less than 200 feet. The surface application of waste by spraying shall be prohibited on slopes greater than five (5) percent when slope length is greater than 200 feet, and greater than eight (8) percent when slope length is less than 200 feet.

Section 4. [3. General] Operating Requirements. (1) When surface application is used in conjunction with soil incorporation methods, incorporation shall occur within two (2) hours of application. [The facility operation shall be under the direction of a permitted operator who shall be on the site during operating hours.]

(2) Surface spraying without incorporation into the soil shall not be used on land without established vegetative cover of seventy-five (75) percent or more. The spraying of liquid waste shall be conducted so that the formation of aerosols is minimized by utilization of best management practices. [No hazardous wastes shall be discharged to or placed in a landfarming facility.]

(3) No hazardous wastes or mixtures of hazardous and solid waste shall be disposed, discharged to or placed in a landfarming site. [Facilities shall not allow access which might expose the public to potential health and safety hazards. All facilities shall be restricted access and have an entrance gate that shall be locked during closing hours and whenever an attendant is not present. Suitable warning signs shall be posted near public access points indicating the type of operation and hazards associated with it, along with the name and address of a contact person.]

(4) No toxic wastes or mixtures of toxic and non-toxic wastes regulated under the Toxic Substances Control Act shall be disposed, discharged to or placed in a landfarming site. [Wastes shall not be landspread on frozen, ice-covered, or water-saturated soil.]

(5) Landspreading shall not occur on land where leafy vegetables or root crops for human consumption will be harvested within twelve (12) months. Landspreading shall not occur on land where crops for direct human consumption other than leafy vegetables or root crops are harvested within two (2) months. Dairy grazing shall be prohibited for six (6) months after landspreading, other livestock grazing shall be prohibited for three (3) months. [Facilities at which food chain crops are or will be grown shall comply with the cadmium and PCB application limits in the "Environmental performance standards" in 401 KAR 30:030, Section 1(1)(h) and (i), and other heavy metal limits as prescribed by the cabinet.]

(6) Waste shall not be landspread on land where tobacco is harvested within five (5) years of waste application. [No raw or unstabilized biologically treated sludge shall be landspread.]

(7) The general public shall be restricted from the application zone for a period of twelve (12) months after each application. [Facilities which accept sewage sludge and/or septic tank pumpings shall comply with paragraphs (a), (b)

and (c) of this subsection:]

[(a) Sewage sludge that is applied to the land surface or is incorporated into the soil is treated by a Process to Significantly Reduce Pathogens (as described in the Guidelines for Landspreading Solid Waste) prior to application or incorporation. Public access to the facility is controlled for at least twelve (12) months, and grazing by animals whose products are consumed by humans is prevented for at least one (1) month. (These provisions do not apply to sewage sludge disposed of by a trenching or burial operation.)]

[(b) Septic tank pumpings that are applied to the land surface or incorporated into the soil are treated by a Process to Significantly Reduce Pathogens prior to application or incorporation, unless public access to the facility is controlled for at least twelve (12) months and unless grazing by animals whose products are consumed by humans is prevented for at least one (1) month. (These provisions do not apply to septic tank pumpings disposed of by a trenching or burial operation.)]

[(c) Sewage sludge or septic tank pumpings that are applied to the land surface or are incorporated into the soil are treated by a Process to Further Reduce Pathogens prior to application or incorporation. Such treatment is not required if there is no contact between the waste and the edible portion of the crop; however, in this case the waste is treated by a Process to Significantly Reduce Pathogens prior to application; public access to the facility is controlled for at least twelve (12) months; and grazing by animals whose products are consumed by humans is prevented for at least one (1) month. If crops for direct human consumption are grown within eighteen (18) months subsequent to application or the solid waste and the edible portion of the crop; however, in this case the solid waste is treated by a Process to Significantly Reduce Pathogens prior to application; public access to the facility is controlled for at least twelve (12) months; and grazing by animals whose products are consumed by humans is prevented for at least one (1) month. If crops for direct human consumption are not grown within eighteen (18) months of application or incorporation, the requirements of paragraphs (a) and (b) of this subsection apply.]

[(8) Waste shall not be landspread on frozen, snow-covered, ice-covered, or water-saturated soil, or during any precipitation event. [Schedules and rates of waste application and schedules of soil and waste monitoring shall be approved by the cabinet.]

[(9) No waste shall be applied in excess of schedules and rates of waste application approved by the cabinet. [Landspreading facilities shall not cause a discharge of leachate or pollutants into waters of the Commonwealth that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act, as amended, or that exceeds the water quality standards for surface waters established in 401 KAR 5:031.]

[(10) No raw or unstabilized waste shall be landfarmed. No person shall cause, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor. [The owner/operator shall maintain records of

schedules and rates of waste application, all testing and monitoring records, and any other pertinent information as required by the cabinet.]

[(11) The amount of any single surface application shall not be greater than an average one-half (1/2) inch in thickness. [Other requirements may be stipulated according to the "Guidelines for Landspreading of Solid Waste" published by the cabinet in order to ensure compliance with "Environmental performance standards" in 401 KAR 30:030, Section 1(1).]

[(12) Subplots determined in Section 2(6)(b) of this regulation shall be staked or otherwise clearly marked in the field.

Section 5. [4.] Application Rates [Applicability of Landfarming Facility Permit]. (1) Annual application rates shall be limited by the nitrogen, cadmium and the polychlorinated biphenyls (PCB) content of the waste. The maximum annual application rate shall be the least amount of solid waste among annual applications rates determined for nitrogen, cadmium and PCB. [Operators of existing landfarming facilities shall register their intent to apply for a landfarming permit within ninety (90) days of the effective date of this regulation on a form as prescribed by the cabinet containing but not limited to:]

(2) The amount of nitrogen landsread shall not exceed the nitrogen utilization rate of the vegetative cover in the application zone. The following steps shall be followed in determining the annual application rate: [Operators of existing landfarming facilities shall submit a complete application to the cabinet within 180 days of the effective date of these regulations.]

(a) Using Table 3, determine the nitrogen utilization of the vegetative cover at the landfarming site. For vegetative cover other than those listed, the cabinet shall determine the nitrogen utilization rate to be used by the applicant. [Name, address and phone number of applicant;]

Table 3  
Nitrogen Utilization Rates for Selected Crops

<u>Vegetative Cover</u>	<u>Yield/Acre</u>	<u>Nitrogen (N) Lbs Per Acre</u>
Corn	150 bushels	185
	180 bushels	240
Corn silage	32 tons	200
Soybeans	50 bushels	175
	60 bushels	210
Grain Sorghum	4 tons	250
Wheat	60 bushels	125
	80 bushels	186
Oats	100 bushels	150
Barley	100 bushels	150
Alfalfa	8 tons	250
Orchard Grass	6 tons	300
Brome Grass	5 tons	166
Tall Fescue	3.5 tons	135
Blue Grass	3 tons	200
Pasture	N/A	250

(b) Determine the percent of available organic nitrogen in the waste using the following calculation:

$$\text{Percent available organic N} = (\text{percent total N}) - (\text{percent } \text{NH}_4\text{-N}) - (\text{percent } \text{NO}_3\text{-N}).$$

[Location of existing facility; and]

(c) Determine the amount of nitrogen that will be available for plant uptake at the landfarming site using one (1) of the following calculations depending on the application method: [Source(s) of sludge.]

1. Incorporation: Lbs available N/ton = (percent  $\text{NH}_4\text{-N}$  x 20) + (percent  $\text{NH}_3\text{-N}$  x 20) + (percent available organic N x 4).

2. Surface application: Lbs available N/ton = (percent  $\text{NH}_4\text{-N}$  x 10) + (percent  $\text{NO}_3\text{-N}$  x 20) + (percent available organic N x 4).

(d) Determine the amount of residual nitrogen in the soil if solid waste has been landspread or fertilizer applied within the past three (3) years using Table 4.

Table 4  
Residual Nitrogen

Years After Applica- tion	Organic Nitrogen Content of Sludge (%)					
	2.0	2.5	3.0	3.5	4.0	4.5
	Lbs N released per ton of sludge added					
1	1.0	1.2	1.4	1.7	1.9	2.2
2	0.9	1.2	1.4	1.6	1.8	2.1
3	0.9	1.1	1.3	1.5	1.7	2.0

If the organic nitrogen content of the sludge is not known, assume an organic nitrogen content of three (3) percent.

(e) Determine the maximum number of tons of waste per acre that may be landfarmed without exceeding the nitrogen utilization rate of the vegetative cover in the application zone using the following calculation:

$\text{Tons/Acre} = ((\text{Nitrogen Utilization Rate of the Vegetative Cover}) - (\text{Residual Nitrogen})) / (\text{Lbs available organic N/ton})$ .

(3) The annual application rate of cadmium from solid waste shall not exceed forty-four hundredths (0.44) pounds per acre on land used for the production of leafy vegetables or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate shall not exceed one and one-tenth (1.1) pounds per acre, and after January 1, 1987, shall not exceed forty-four hundredths (0.44) pounds per acre. The annual application rate shall be determined using the following calculation:

$\text{Tons/acre} = \text{pounds of allowable cadmium per acre (mg of cadmium per kg in sample)} \times 0.002$ .  
[Existing landfarming facilities registered with the cabinet are hereby granted a permit by rule to operate for a period not to exceed one (1) year from the effective date of these regulations.]

(4) Solid waste containing concentrations of polychlorinated biphenyls greater than ten (10) mg/kg (dry weight) shall not be landspread on sites where food chain crops are to be harvested within five (5) years of waste application. [Permits shall be issued to the operator and are not necessarily limited to apply to one (1) site. Additional sites may be added through permit modification procedures if the modification does not exceed fifty (50) percent of the originally permitted acreage. No permit modification shall be granted pursuant to this

subsection until at least thirty (30) days have expired following publication of a notice of permit modifications, and the conditions specified in 401 KAR 47:020, Section 2(2), have been met.]

(5) The maximum cumulative concentration in the soil in pounds per acre of metals to be landspread are listed in Table 5. [Landspreading of limited quantities of waste determined by the cabinet to constitute beneficial reuse for agricultural purposes may occur without a permit if, upon request, a variance is granted by the cabinet.]

Table 5  
Maximum Metal Cumulative Concentration  
Soil Exchange Capacity  
(meq/100g)

Para- meter	0-5	5-15	15+
Lead	500 lbs/acre	1000 lbs/acre	2000 lbs/acre
Cadmium	5 lbs/acre	10 lbs/acre	20 lbs/acre
Copper	125 lbs/acre	250 lbs/acre	500 lbs/acre
Nickel	50 lbs/acre	100 lbs/acre	200 lbs/acre
Zinc	250 lbs/acre	500 lbs/acre	1000 lbs/acre

The following equation shall be used to determine the maximum number of tons of waste per acre that may be landspread without exceeding the above limitations:

$\text{Tons waste/acre} = (\text{lbs per acre for each parameter from Table 5}) / (\text{dry mg/kg of metal in waste sample}) \times .002$ .

Section 6. Monitoring. (1) Sites receiving one (1) time only applications of less than five (5) dry tons per acre of waste are not subject to the requirements of this section.

(2) Soils shall be monitored in accordance with a monitoring plan approved by the cabinet at all sites that have received waste within the past twelve (12) months. Representative samples shall be taken from at least three (3) points per acre, composited and averaged.

(3) The applicant shall prepare a surface and groundwater quality assurance plan which describes the characteristics of the water resources and potential for contamination. Surface and groundwater at permitted sites shall be monitored in accordance with the assurance plan or as prescribed by the cabinet. Samples shall be taken from at least one (1) upgradient sampling point and one (1) downgradient sampling point.

(4) The cabinet may require food chain crops samples to be taken and analyzed.

(5) The operator shall maintain records of schedules and rates of waste applications, all testing and monitoring records on forms provided by the cabinet throughout the life of the permit. Records shall be available to the cabinet upon request.

(6) If soil monitoring discloses that the cumulative concentration of a contaminant is above the maximum level permitted under Section 5(4) of this regulation, a written notice shall be given to the cabinet within ten (10) days of receipt of the monitoring results. The permittee shall cease further landfarming and submit to the cabinet within forty-five (45) days a report describing proposed corrective actions to be

taken by the permittee. A notice shall be recorded on the property deed stating that the property has received solid waste at concentrations exceeding permitted levels, and that food chain crops should not be grown due to possible health hazards.

(7) Solid waste from wastewater treatment facilities shall be sampled in accordance with Table 6. Other waste shall be sampled at least once a year. Waste shall be monitored for solids content, total nitrogen, pH,  $\text{NH}_4\text{-N}$ ,  $\text{NO}_3\text{-N}$ , phosphorus, total potassium, PCB, chromium, copper, zinc, nickel, lead, and cadmium.

Table 6  
Required Sampling Schedule

Design Treatment Capacity (gpd)	Sample Frequency/Year
Less than 100,000	1
100,000 - 2,000,000	2
2,000,001 - 10,000,000	4
More than 10,000,000	12

Section 7. General Requirements. (1) A solid waste generator may dispense waste to individuals for subsequent landfarming with written approval from the cabinet. Approval may be granted upon submission of a sludge analysis as required in Section 2(5) of this regulation, demonstration that the maximum concentration of contaminants is less than those shown in Table 1 in Section 1 of this regulation, and a description of the proposed distribution system. The maximum amount of waste that may be obtained annually by any individual is limited to 1,000 pounds (dry weight). The generator shall be required to maintain a list of names and addresses of all individuals receiving the waste and submit to the cabinet waste monitoring analyses according to the schedule contained in Section 6(7) of this regulation. The solid waste generator shall provide to individuals receiving waste a copy of the waste analysis and a brochure to be published by the cabinet explaining the proper procedures to be utilized in the landspreading of waste.

(2) Permits shall be issued to the operator and may include application zones which are not located contiguously. Sites may be added through permit modification procedures if the modification does not exceed fifty (50) percent of the originally permitted acreage, or a maximum of 100 acres, whichever is less. No permit modification shall be granted pursuant to this subsection until at least thirty (30) days have expired following publication of a public notice of the permit modification, and the conditions specified in 401 KAR 47:020, Section 3(2) have been met. If additional sites exceeding fifty (50) percent of the originally permitted acreage or over 100 acres, are requested, an application for a new permit shall be required by the cabinet.

(3) The cabinet shall not permit the landspreading of solid wastes which may present a threat to human health and the environment. The landspreading suitability of solid wastes other than sewage sludge or food service industry wastes shall be evaluated by the cabinet on a case-by-case basis. The applicant may submit a request for a determination of suitability prior to submittal of a complete

permit application. The cabinet may base a decision as to the landspreading suitability of a particular waste upon the ability of the waste to biodegrade in the environment, the likelihood that waste constituents will contaminate surface or groundwaters, the potential for nuisances from odors or unsightly conditions, in addition to threats to human health or the environment.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled in the Capital Plaza Tower, Frankfort, Kentucky on March 28, 1985 at 1 p.m. EST. Persons interested in attending this public hearing shall contact: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The written comment period will close at 4:30 p.m. on March 28, 1985.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: Permitted landfarming facilities: 36; Wastewater treatment plants: 3,580\*. \*Only 342 of these have a design treatment capacity greater than 100,000 gallons per day. All others could receive a granted permit-by-rule to dispose of sludge.

(a) Direct and indirect costs or savings to those affected:

1. First year: A granted permit-by-rule is proposed which will save 90 percent of the wastewater treatment plants in Kentucky the cost of applying for a permit for a landspreading facility. The 10 percent of the wastewater treatment plants which would be required to obtain a landspreading permit would have already been required to obtain a permit under the existing regulations. Thus, there will be no new costs to these facilities to prepare a permit application or meet permit standards. The regulations propose tiered requirements based on the concentration of contaminants in the waste. Certain sludges will be required to meet reduced requirements because they do not pose a substantial risk to human health or the environment. Facilities which landfarm sludge on a one-time only basis at a rate of 5 dry tons/acre or less will realize a net savings of \$6,060 from the reduced monitoring requirements during the first year (see Appendix I, II, and III). For facilities landspreading sludge at rates greater than 5 dry tons/acre or at sites which will receive the waste routinely, the frequency of sampling has been increased. Thus, for facilities which landspread sludge from wastewater treatment plants, the following table indicates the increased costs to average facilities:

Less than 100,000 gpd = No impact  
100,000 - 2,000,000 gpd = \$820/year  
2,000,001 - 10,000,000 gpd = \$1,640/year  
More than 10,000,000 gpd = \$6,560/year

Additionally, landspreading which facilities grow food chain crops might be required to expend approximately \$220/year/sample, if the cabinet deems necessary. Landfarming facilities are prohibited from the ten-year floodplain. This will result in additional costs as wastes

must be hauled longer distances, however, these costs are estimated to be minimal. It is estimated that travel distances might double. Average hauling distances range from less than 1 mile to 10 miles. Sludges may not be applied to land used to raise tobacco. Although this may result in inconvenience to farmers wishing to use sludge as fertilizer for tobacco beds, it is not anticipated to cause a cost to the operators or owners of landfarming facilities. Operating requirements have been proposed which would require that surface spraying equipment be used only on vegetated land (i.e., pastures, forestland, crops). Although the equipment to inject waste below the surface is more expensive, it is estimated that permit applicants with existing surface spraying equipment will identify vegetated land to landfarm at minimal additional cost to themselves. For those applicants who choose to landspread sludge on non-vegetated ground, they will incur additional equipment costs which will vary depending upon the size of the permitted facility. Two new requirements have been added which may add a relatively insignificant amount to administrative costs borne by the facility. These requirements are: (1) subplots must be staked to readily identify them in the field; and (2) programs to give sludge away must be approved by the division and must meet certain recordkeeping requirements. In addition to other savings identified above, the regulations have been clarified in an effort to delete unnecessary administrative requirements and clarify design and operating requirements. It is estimated that this will result in small savings to permit applicants and permit holders.

2. Continuing costs or savings: Many of the costs/savings identified in paragraph (1)(a) above would be incurred yearly. For sludge spread one-time only at a site, facilities would realize a savings of \$820 per year because of the reduced groundwater sampling requirements. For all other landspreading facilities, the sampling costs would be the same each year for the life of the permit.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Wastewater treatment facilities which distribute sewage sludge to the public are required to maintain a list of individuals to whom sludge was given. In addition, monitoring results must be submitted to the division. This will result in a slight cost to those facilities which give sludge away for private use.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None; the proposed regulation contains requirements which are comparable to the existing regulation in terms of permit application review.

2. Continuing costs or savings: None; see (2)(a)1 for comment.

3. Additional factors increasing or decreasing costs: None; see (2)(a)1 for comment.

(b) Reporting and paperwork requirements: For wastewater treatment facilities which give sludge away for private use, the promulgating agency will prepare and distribute brochures identifying proper sludge handling methods for individuals unfamiliar with its hazards.

(3) Assessment of anticipated effect on state

and local revenues: There will be no effect on state revenues because the filing fees for permit applications will remain the same. There will be no effect on local revenues because the requirements for permitting landfarming facilities will remain essentially the same. The major effect will be on wastewater treatment plants generating sludge which qualifies for a granted permit-by-rule. Facilities with a design capacity less than 100,000 gallons per day will realize a savings since they will be able to obtain a granted permit-by-rule.

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(a) A permit-by-rule is granted to 90 percent of wastewater treatment plants spreading sludge. Alternative: 1. Less stringent: The division could have chosen to grant a permit-by-rule to all wastewater treatment facilities which landspread sludge. This alternative was rejected as environmentally unsound. Wastewater treatment plants processing 100,000 gallons per day or less would produce an average of 36 tons of sludge per year. Larger facilities are more likely to be treating industrial waste with heavy metals and persistent organics. To allow uncontrolled landspreading of sludge in larger quantities (i.e., for wastewater treatment plants processing 100,000 - 10,000,000 gpd) would endanger the public health and the environment.

2. More stringent: The division could have chosen to require all landspreading operations for sewage treatment plants to apply for full permits. The division rejected this alternative because it would subject 3,238 small wastewater treatment plants to full permitting requirements. This would cause the agency administrative difficulties in processing such a large number of permits. In addition, the environmental impact of these small quantities of sludge applied to land on a one-time only or periodic basis would pose minimal risk.

3. Present proposal: The division chose to grant a permit-by-rule to wastewater treatment plants who choose to landspread their waste provided the capacity of the wastewater treatment plant is below 100,000 gpd. This will provide adequate safety to public health and the environment while minimizing administrative burdens on small facilities.

(b) Tiering of requirements based on wastewater treatment facility size and contaminants contained within the waste.

1. Less stringent: The division could have tiered the requirements further. The division rejected this alternative as administratively burdensome.

2. More stringent: The division could have required all sludge to meet the same requirements. The division rejected this alternative as unacceptable because it placed unreasonable requirements on smaller facilities.

3. Present proposal: The division chose to tier the regulations to allow less stringent requirements for small quantity landspreading operations, which were environmentally acceptable.

(c) Landfarming facilities are prohibited from the ten-year floodplain.

1. Less stringent: The division could have chosen to allow all facilities to locate in the ten-year floodplain. However, the potential for heavy metal and pathogen contamination would

have endangered the environment.

2. More stringent: The division could have chosen to ban all sludge landspreading from the 100-year floodplain. Because landspread wastes biodegrade in the environment, this would have placed unnecessary requirements on landspreading operations when the likelihood of contaminating surface waters is small.

3. Present proposal: The division chose to prohibit facilities from the ten-year floodplain to minimize adverse effects to the aquatic environment which would be caused by washout of waste.

(d) Surface spraying of waste was restricted to land with an established vegetative cover of 75 percent or more.

1. Less stringent: The division could have chosen to allow surface spraying of waste on bare soil. However, this method would endanger the environment due to the potential for ponding and run-off to occur.

2. More stringent: The division could have chosen to prohibit surface application of waste entirely. This method was rejected because it would have restricted all landspreading applications to subsurface injection methods. This method would be damaging to pastures and forestland, without providing significant additional protection to the environment.

3. Present proposal: The division chose to prohibit surface application on unvegetated soil to minimize the potential for waste to reach surface water through run-off.

(e) Tobacco may not be grown on land to which sludge has been applied for five years.

1. Less stringent: The division could have chosen to allow tobacco to be grown on land to which sludge was applied. However, this would have resulted in a risk to public health from heavy metal contamination due to tobacco's propensity to bioaccumulate cadmium.

2. More stringent: The division could have chosen to prohibit the growing of tobacco on land to which sewage sludge has been applied. This alternative was rejected as being prohibitive and administratively unenforceable.

3. Present proposal: The division chose to restrict the growing of tobacco for five years from land to which sewage had been applied. This proposal maximizes the safety to public health from heavy metal contamination of tobacco, while allowing beneficial agricultural use of sewage sludge.

(f) Monitoring requirements for wastewater treatment plant sludge have been increased.

1. Less stringent: The division could have chosen to maintain the existing monitoring requirements for wastewater treatment plant sludge. However, for large wastewater treatment plants, the monitoring requirements were inadequate to protect the public health and the environment from contaminants contained within the sludge.

2. More stringent: The division could have specified more frequent monitoring. This alternative was rejected as unnecessary to protect public health and environment.

3. Present proposal: The division chose to require a tiered schedule for monitoring the sludge from wastewater treatment plants to assure adequate protection of public health and the environment from contaminants which might be contained within the sludge.

(g) Requirements have been established for programs to distribute sewage sludge to the

general public.

1. Less stringent: The division could have chosen not to place requirements on programs to give solid waste to the general public. This alternative was rejected because of the danger to the public from improper landspreading practices or accidental distribution of contaminated waste.

2. More stringent: The division could have chosen to place more requirements on programs to distribute solid waste to the public. However, this alternative was rejected because it would serve as a disincentive to beneficial agricultural use of solid waste.

3. Present proposal: The division chose to place limited requirements on programs to give solid waste away to the public to safeguard public health and protect the environment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable

(6) Any additional information or comments: None

Tiering:

Was tiering applied? Yes

#### REFERENCES:

#### APPENDIX I COST OF GROUNDWATER MONITORING

##### First Year Costs:

Cost of installing 3 monitoring wells (average 34 feet each at \$45/foot)	\$4,725
Cost of sampling for one year (0.5 days at \$200/man-day)	100
Cost of analysis for heavy metals (8 constituents x \$15/constituent x 2 samples/well x 3 wells)	720
Total cost	\$5,545*

\*Facilities which landfarm Grade I sludge would realize this amount as savings. Facilities which landfarm Grade II sludge are required to monitor their groundwater under the existing regulation; there would be no new cost to these facilities.

##### Additional Year Costs:

Cost of sampling for one year (0.5 days at \$200/man-day)	\$ 100
Cost of analysis for heavy metals (8 constituents x \$15/constituent x 2 samples/well x 3 wells)	720
Cost per each sampling	\$ 820

##### Cost for each year after the first year for wastewater treatment facilities:\*\*

(1) Less than 100,000 gpd	\$ 820
(2) 100,000 - 2,000,000 gpd	1,640
(3) 2,000,001 - 10,000,000 gpd	3,280
(4) More than 10,000,000 gpd	9,840

\*\*These costs do not apply to facilities landfarming Grade I sludge and would accrue as savings to these facilities. Facilities landfarming Grade II sludge would have been required to sample yearly, however, the proposed



amendments require more frequent monitoring for some facilities.

# APPENDIX II WASTE SAMPLING AND ANALYSIS

Sampling - average 3 grab samples taken and composited (0.5 days at \$200/man-day))	\$ 100
Analysis of minimum 13 parameters (13 parameters x \$15/parameter)	195
Total yearly cost	\$ 295*

\*For Grade I sludges, facilities would realize this amount as a savings. For Grade II sludge, facilities must already meet this requirement in the existing regulations.

# APPENDIX III FOOD CHAIN CROP SAMPLING

Collection of food chain crop samples (0.5 days at \$200/man-day)	\$ 100
Analysis for heavy metals (8 constituents at \$15/constituent)	120
Cost per sample	\$ 220*

\*For facilities which landfarm Grade I sludge, this requirement would not apply and the facility would realize this amount as a savings.

# LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Landfarming  
SPONSOR: Natural Resources and Environmental Protection Cabinet  
NOTE SUMMARY  
LOCAL GOVERNMENT MANDATE:  
TYPE OF MANDATE: Establishes the application requirements, design and operating requirements for landfarming solid waste.  
LEVEL(S) OF IMPACT: City; County; Urban County Government  
BUDGET UNIT(S) IMPACT: Local governments landspreading solid waste.  
FISCAL SUMMARY: Zero  
MEASURE'S PURPOSE: Amends existing regulations and guidelines adopted as regulations.  
PROVISION/MECHANICS:  
FISCAL EXPLANATION: Amendments will not create any additional fiscal impacts.  
PREPARER: Division of Waste Management

# NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Surface Mining Reclamation and Enforcement (Proposed Amendment)

# 405 KAR 16:120. Use of explosives.

RELATES TO: KRS 350.430  
PURSUANT TO: KRS Chapter 13A [13.082], 350.020, 350.028, 350.465  
NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during surface mining activities and for restoration and

reclamation of surface areas affected by mining activities. This regulation sets forth specific requirements for the use of explosives for surface blasting, including qualified supervision of blasting, pre-blasting surveys, blasting schedules, warning signals, restrictions on timing and location of blasting, limitations on airblast and ground vibration, seismographic measurements, and records of blasting operations.

Section 1. General Requirements. (1) Each permittee and person who conducts blasting operations shall comply with all applicable local, state, and federal laws and regulations in the use of explosives.

(2) Blasts that use more than five (5) pounds of explosives or blasting agents shall be conducted according to the schedule required by Section 3 of this regulation.

(3) (a) During the time before twelve (12) months after the approval of Kentucky's blaster certification program by OSM, all blasting operations shall be conducted, under the supervision of a [certified] blaster licensed by the Kentucky Department of Mines and Minerals, by experienced, trained, and competent persons who understand the hazards involved. During this time a licensed blaster and at least one (1) other person shall be present at the firing of a blast.

(b) On and after twelve (12) months from the approval of Kentucky's blaster certification program by OSM, each permittee shall have all blasting operations conducted under the direction of a blaster certified in accordance with 405 KAR 7:070. On and after this date, a certified blaster and at least one (1) other person shall be present at the firing of a blast.

(c) Persons responsible for blasting operations at a blasting site shall be familiar with the blasting plan and site-specific performance standards.

(4) (a) An anticipated blast design shall be submitted if blasting operations will be conducted within:

1. 1,000 feet of any building used as a dwelling; public building; school; church; or commercial, community or institutional building outside the permit area; or

2. 500 feet of an active or abandoned underground mine.

(b) The blast design may be presented as part of the permit application or at a time before the blast approved by the cabinet.

(c) The blast design shall contain sketches of the drill patterns, delay periods, and decking; shall indicate the types and amounts of explosives to be used, critical dimensions, and the locations of structures to be protected; shall include a general description of structures to be protected; and shall contain a discussion of design factors to be used, which protect the public and meet the applicable airblast, flyrock, and ground vibration standards in this regulation.

(d) The blast design shall be prepared and signed by a certified blaster.

(e) The cabinet may require changes to the design submitted in order to ensure compliance with KRS Chapter 350; SMCRA; and Title 405, Chapters 7 through 24.

Section 2. Pre-blasting Survey. (1) At least



thirty (30) days before initiation of blasting, the permittee shall notify, in writing, all residents and owners of dwellings or other structures located within one-half (1/2) mile of the permit area how to request a pre-blasting survey in accordance with subsection (2) of this section.

(2) A resident or owner of a dwelling or other structure within one-half (1/2) mile of any part of the permit area may request a pre-blasting survey. This request shall be made in writing directly to the permittee or to the cabinet which shall promptly notify the permittee.

[(1) On the request to the cabinet by a resident or owner of a dwelling or structure that is located within one-half (1/2) mile of any part of the permit area,] The permittee shall promptly conduct a pre-blasting survey of the dwelling or structure. If a structure is renovated, modified, or added to subsequent to a pre-blast survey, then, upon request [to the cabinet] a survey of such additions and renovations shall be performed in accordance with this section.

(3) [(2)] The survey shall determine the condition of the dwelling or structure and document any [pre-blasting] damage and other physical conditions [factors] that could reasonably be affected by the blasting. [Assessments of] Structures such as pipelines [pipes], cables, transmission lines and cisterns, wells, and other water systems warrant special attention; however, the assessment of these structures may [shall] be limited to surface condition and readily available data unless additional data are specifically required by the cabinet. [Special attention shall be given to the pre-blasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.]

(4) [(3)] A written report of the survey shall be promptly prepared and signed by the person who conducted the survey. The report may include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. If the resident or structure owner or his representative accompanies the surveyor, the report shall contain the name of such person. Copies of the report shall be promptly provided to the person requesting the survey and to the cabinet. If the person requesting the survey disagrees with the results of the survey, he or she may submit [notify], in writing to both the permittee and the cabinet, a detailed description of the specific areas of disagreement. The cabinet may require resolution of disagreements, additional data on the subjects of disagreements, or additional measures to ensure that adequate and accurate information is included in the pre-blast survey and to ensure compliance with the requirements of this regulation.

(5) Any surveys requested more than ten (10) days before the planned initiation of blasting shall be completed by the permittee before the initiation of blasting.

Section 3. Public Notice of Blasting Schedule.  
(1) Blasting schedule publication.

(a) Each permittee shall publish a blasting schedule at least ten (10) days, but not more than thirty (30) days, before beginning a

blasting program in which blasts that use more than five (5) pounds of explosives or blasting agents are detonated. The blasting schedule shall be published in a newspaper of general circulation in the locality of the blasting site.

(b) Copies of the schedule shall be distributed in accordance with the time frame specified in paragraph (a) of this subsection to the appropriate department regional office, to all owners of dwellings or other structures within one-half (1/2) mile of the blast site, [by mail] to local governments and public utilities, and [by mail or delivered] to each residence within one-half (1/2) mile of the blasting site [permit area] described in the schedule. [For the purposes of this section, the permit area does not include haul or access roads, coal preparation and loading facilities, and transportation facilities between coal excavation areas and coal preparation or loading facilities, if blasting is not conducted in these areas. Copies sent to residences shall be accompanied by information advising the owner or resident how to request a pre-blasting survey.]

(c) The permittee shall republish and redistribute the schedule [by mail] at least every twelve (12) months and revise, republish, and redistribute the schedule at least ten (10) days, but not more than thirty (30) days, before blasting whenever the area covered by the schedule changes, the actual time periods for blasting significantly differ from those identified in the prior announcement, or there is substantial non-adherence to the types or patterns of warning or all-clear signals identified in the schedule.

(2) Blasting schedule contents.

[(a) A blasting schedule shall not be so general as to cover the entire permit area or all working hours, but shall identify as accurately as possible the location of the blasting sites and the time periods when blasting will occur.]

[(b)] The blasting schedule shall contain at a minimum:

(a) The name, address, and telephone number of the permittee;

(b) [1.] Identification of the specific areas in which blasting will take place. [Each specific blasting area described shall be reasonably compact and not larger than 300 acres;]

(c) [2.] Identification of the dates and time periods when explosives are to be detonated. [These periods shall not be less than one (1) hour each and shall not exceed an aggregate of four (4) hours in any one (1) day;]

(d) [3.] Identification of the methods to be used to control access to the blasting area; and

(e) [4.] Identification of the types and patterns of audible warnings and all-clear signals to be used before and after blasting. [; and]

[5. A description of unavoidable hazardous situations referred to in Section 4(2) which have been approved by the cabinet for blasting at times other than those described in the schedule.]

[(3) Public notice of changes to blasting schedules.]

[(a) Before blasting in areas or at times not in a previous schedule, the permittee shall prepare a revised blasting schedule according to the procedures in subsections (1) and (2) of

this section. Where notice has previously been mailed to the owner or residents under subsection (1)(b) of this section with advice on requesting a pre-blast survey, the notice of change need not include information regarding pre-blast surveys.]

[(b) If there is a substantial pattern of non-adherence to the published blasting schedule as evidenced by the absence of blasting during scheduled periods, the cabinet may require that the permittee prepare a revised blasting schedule according to the procedures in paragraph (a) of this subsection.]

#### Section 4. Surface Blasting Requirements. (1) General requirements.

(a) The permittee shall conduct blasting operations at times approved by the cabinet and announced in the blasting schedule. The cabinet may limit the area covered, timing, and sequence of blasting as listed in the schedule, if such limitations are necessary and reasonable in order to protect the public health and safety or welfare.

(b) [(1)] All blasting shall be conducted between sunrise and sunset.

[(a)] The cabinet may specify more restrictive time periods based on public requests or other relevant information and [,] according to the need to adequately protect the public from adverse noise and other impacts.

[(b)] Blasting may, however, be conducted between sunset and sunrise if:

1. A blast that has been prepared during the day must be delayed due to the occurrence of an unavoidable hazardous condition and cannot be delayed until the next day because a potential safety hazard could result that cannot be adequately mitigated; [and]

2. Prior approval for conducting the blasting between sunset and sunrise is obtained from the Kentucky Department of Mines and Minerals;

3. [2.] In addition to the required warning signals, oral notices are provided to all persons within one-half (1/2) mile of the blasting site; and

4. [3.] A complete written report of blasting at night is filed by the permittee with the cabinet not later than three (3) days after the night blasting, not including Saturdays, Sundays, or legal holidays. The report shall include a detailed description [in detail] of the reasons for the delay in blasting including why the blast could not be held over to the next day, identification of the time at which [when] the blast was actually conducted, a description of the warning notices given, and a copy of the blast record [report] required by Section 6 of this regulation.

(c) Unscheduled blasts may be conducted only where public or operator health and safety so require and for emergency blasting actions. When a permittee conducts an unscheduled blast, the permittee, using audible signals, shall notify all persons within one-half (1/2) mile of the blasting site and document the reason for the unscheduled blast in accordance with Section 6(16) of this regulation.

(d) The use of a charge weight of explosives in excess of 40,000 pounds in any blast shall not occur without a valid permit for such blasting from the Kentucky Department of Mines and Minerals. Such a permit shall be present at the blast site while such blasting is being

conducted.

[(2) Blasting shall be conducted at times announced in the blasting schedule, except in those unavoidable hazardous situations, previously approved by the cabinet in the permit application, where operator or public safety require unscheduled detonation.]

(2) [(3)] Warnings. Warning and all-clear signals of different character or pattern that are audible within a range of one-half (1/2) mile from the point of the blast shall be given. Each person within the permit area and each person who resides or regularly works within one-half (1/2) mile of the permit area shall be notified of the meanings of the signals as identified in the blasting schedule through appropriate communications [instructions]. These notifications [instructions] shall be periodically delivered or otherwise communicated to such persons in a manner which can [be] reasonably be expected to inform such persons of the meanings of the signals. Delivery or other appropriate communication of the meanings of such signals [instructions] to the [a] head of a household or to the person in charge of a place of business shall constitute sufficient notification of the meanings of such signals [communication of such instructions] to all persons at such household or place of business. Each permittee shall maintain signs in accordance with 405 KAR 16:030, Section 6.

(3) [(4)] Access control. [Access to an area subject to flyrock from blasting shall be regulated to protect the public and livestock.] Access to the blasting area shall be controlled to prevent the presence of livestock or unauthorized personnel during blasting [and] until the blaster [an authorized representative of the permittee] has reasonably determined:

(a) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(b) That access to and travel in or through the blasting area can be safely resumed.

(4) [(5)] (a) Airblast. Airblast shall be controlled so that it does not exceed the values specified in Appendix A of this regulation at any dwelling; public building; school; church; or commercial, community, or institutional building outside the permit area except as provided in subsection (8) of this section [structure, unless such structure is owned by the permittee and is not leased to any other person. If a building owned by the permittee is leased to another person, the lessee may sign a waiver relieving the permittee from meeting the airblast limitations of this subsection].

(b) In all cases except those involving the use of C-weighted, slow-response devices, the measuring systems used shall have a flat frequency response of at least 200 Hz at the upper end. The C-weighted shall be measured with a Type 1 sound level meter that meets the standard American National Standards Institute (ANSI) S1.4-1971 specifications.

(c) If necessary to prevent damage, the cabinet shall specify lower maximum allowable airblast levels than those in Appendix A of this regulation for use in the vicinity of a specific blasting operation. [The permittee may satisfy the provisions of this section by meeting any of the four (4) specifications in the chart in Appendix A of this regulation.]

(d) The permittee shall conduct periodic

monitoring to ensure compliance with the airblast standards. The cabinet may require [an] airblast measurements of any or all blasts and may specify the locations of such measurements.

[(6) Except where lesser distances are approved by the cabinet, based upon a pre-blasting survey, seismic investigations, or other appropriate investigations, and based upon the provisions of 405 KAR 24:040, blasting shall not be conducted within:]

[(a) 300 feet of any building used as a dwelling, school, church, hospital, or nursing facility; or]

[(b) 300 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines.]

(5) [(7)] Flyrock. Flyrock, including blasted material traveling along the ground, shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling; public building; school; church; commercial; community, or institutional building; or any [other] occupied structure and in no case beyond the boundary of the permit area or beyond the area of regulated access required under subsection (3) [(4)] of this section.

(6) [(8)] Prevention of adverse impacts. Blasting shall be conducted to prevent injury to persons; damage to public and [or] private properties [property] outside the permit area; adverse impacts on any underground mine; [and] changes in the courses, channels, and [or] availability of [ground or] surface waters outside the permit area; and alterations of the ground water flow systems and ground water availability outside the permit area.

(7) Ground vibration.

(a) General. In all blasting operations except as otherwise authorized by subsection (8) of this section, the maximum ground vibration shall not exceed the values approved in the blasting plan required under 405 KAR 8:030. The maximum ground vibration at the location of any dwelling; public building; school; church; or commercial, community, or institutional building outside the permit area shall be established in accordance with either the maximum peak particle velocity limits of paragraph (b) of this subsection, in accordance with the scale-distance equations of paragraph (c) of this subsection, in accordance with the blasting-level equations of paragraph (d) of this subsection, or by the cabinet pursuant to paragraph (e) of this subsection. All other structures in the vicinity of the blasting area, such as water towers, pipelines, and other utilities; tunnels; dams; impoundments; and underground mines shall be protected from damage by establishment of a maximum allowable limit on the ground vibration proposed by the applicant in the blasting plan and approved by the cabinet.

(b) Maximum peak particle velocity. The maximum ground vibration shall not exceed the limits established in Appendix B of this regulation at the location of any dwelling; public building; school; church; or commercial, community, or institutional building outside the permit area. Seismographic records shall be recorded for each blast.

(c) Scale-distance equations.

1. A permittee may use the scale-distance equations of Appendix C of this regulation to

determine the allowable charge weight of explosives to be detonated within any eight (8) millisecond period without seismic monitoring.

2. The development of a modified scale-distance factor may be authorized by the cabinet based on a written request by the permittee supported by seismographic records of blasting at the minesite. The modified scale distance factor shall be determined such that the particle velocity of the predicted ground vibration will not exceed the limits established in Appendix B of this regulation at a ninety-five (95) percent confidence level.

(d) Blasting-level equations. A permittee may use the ground vibration limits calculated from the blasting-level equations in Appendix D of this regulation to determine the maximum allowable ground vibration. If the blasting-level equations are used, a seismographic record including both particle velocity and vibration-frequency levels shall be provided for each blast. The method for the analysis of the predominate frequency contained in the blasting records shall be approved by the cabinet before application of this alternative blasting criterion.

(e) The maximum allowable ground vibration shall be reduced by the cabinet beyond the limits of this subsection if the cabinet determines that lower limits are necessary to provide damage protection and ensure compliance with subsection (6) of this section.

[(9) In all blasting operations, except as otherwise authorized in this section, the maximum peak particle velocity shall not exceed one (1) inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building. The maximum peak particle velocity shall be recorded as either the largest of the peak particle velocities measured in three (3) mutually perpendicular directions, or the vector sum thereof. The cabinet may reduce the maximum peak particle velocity allowed, if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts, or other factors.]

(8) [(10) Provided that blasting is conducted in such manner as to prevent adverse impacts on any underground mine and changes in the course, channel, or availability of ground or surface water outside the permit area, then] The maximum airblast and ground vibration standards [peak particle velocity limitation] of this section shall not apply at the following locations:

(a) At structures owned by the permittee [or the person conducting the blasting operation,] and not leased to another party; and

(b) At structures owned by the permittee [or the person conducting the blasting operation,] and leased to another party, if a written waiver by the lessee is submitted to the cabinet prior to blasting.

[(11) An equation for determining the maximum weight of explosives that can be detonated within any eight (8) millisecond period is in Appendix B of this regulation. If the blasting is conducted in accordance with this equation, the peak particle velocity shall be deemed to be within the one (1) inch-per-second limit.]

Section 5. Seismographic Measurements. (1) The maximum peak particle velocity shall be recorded

as either the largest of the peak particle velocities measured in three (3) mutually perpendicular directions or the vector sum thereof. [Where a seismograph is used to monitor the velocity of ground motion and the peak particle velocity limit of one (1) inch per second is not exceeded, the equation in Appendix B of this regulation need not be used. If that equation is not used, a seismograph record shall be obtained for each shot.]

[(2) The use of a modified equation to determine maximum weight of explosives per delay for blasting operations at a particular site may be approved by the cabinet on receipt of a petition accompanied by reports including seismograph records of test blasting on the site. In no case shall the cabinet approve the use of a modified equation where the peak particle velocity of one (1) inch per second required in Section 4(9) would be exceeded.]

[(2) [(3)] The cabinet may require a permittee to conduct seismic monitoring [seismograph record] of any or all blasts and may specify the location at which such measurements are taken and the degree of detail necessary in the measurement.

Section 6. Records of Blasting Operations. A record of each blast, including any required seismograph reports, shall be retained for at least five (5) [three (3)] years and shall be available for inspection by the cabinet and the public on request. The record shall contain the following data:

(1) Name of the permittee [person conducting the blasting operations].

(2) Location, date, and time of the blast.

(3) Name, signature, certification number, and license number of the blaster in charge of the blast [-in-charge].

(4) Identification of and direction and distance, in feet, from the nearest blast hole to the nearest dwelling; public building; school; church; or commercial, community, or institutional building outside the permit area, except those described in Section 4(8) of this regulation. [either:]

[(a) Not located in the permit area; or]

[(b) Not owned nor leased by the permittee.]

(5) Weather conditions, including those which may cause possible adverse blasting effects. [temperature, wind direction, and approximate velocity.]

(6) Type of material blasted.

(7) Sketches of the blast pattern including number of holes, burden, [and] spacing, decks, and delay pattern.

(8) Diameter and depth of holes.

(9) Types of explosives used.

(10) Total weight of explosives used.

[(11) [(10)] Total weight of explosives used per hole.

[(12) [(11)] Maximum weight of explosives detonated within any eight (8) millisecond period.

[(13) [(12)] Maximum number of holes detonated within any eight (8) millisecond period.

[(14) [(13)] Type of initiation system.

[(15) Type of circuit.

[(16) [(14)] Type and length of stemming.

[(17) [(15)] Mats or other protection used.

[(18) [(16)] Type of delay detonator and delay periods used.

[(17) Sketch of the delay pattern.]

[(18) Number of persons in the blasting crew.]

[(19) Seismographic and airblast records, if used, which include for each record:

(a) Type of instrument, sensitivity, and either calibration signal or certification of annual calibration;

(b) Exact location of instrument and the date of, time of, and distance from the blast;

(c) For seismographic records, the actual seismographic record;

(d) Name of the person and firm taking the reading;

(e) Name of the person and firm analyzing the seismographic record; and

(f) As applicable, vibration and airblast levels recorded.

[(20) Reasons and conditions for each unscheduled blast.

[(19) Seismographic records, where required, including the calibration signal of the gain setting and;]

[(a) Seismograph reading, including exact location of seismograph and its distance from the blast;]

[(b) Name of the person taking the seismograph reading; and]

[(c) Name of person and firm analyzing the seismograph record.]

#### Appendix A of 405 KAR 16:120

##### Airblast Limitations

Lower frequency limit of measuring system in [,] Hz ( $\pm 3$ dB)	Maximum level in dB
*0.1 Hz or lower - flat response	134[5] peak
2 Hz or lower - flat response	133[2] peak
6 Hz or lower - flat response	129[30] peak
*C-weighted, slow response	105 peak dBC [109C.]

\*These measuring systems shall be used only when approved by the cabinet.

#### Appendix B of 405 KAR 16:120

##### Peak Particle Velocity Limits

Distance from the blasting site in feet	Maximum allowable peak particle velocity for ground vibration in inches per second
0 to 300	1.25
301 to 5,000	1.00
5,001 and beyond	0.75

#### Appendix C of 405 KAR 16:120

##### Scale-distance Equations

Distance (D) from the blasting site in feet	Scale-distance equation
0 to 300	$W = (D/50)^2$
301 to 5,000	$W = (D/55)^2$
5,001 and beyond	$W = (D/65)^2$

where: W = the maximum weight of explosives that can be detonated within any eight (8) millisecond period.

where: D = the distance, in feet, from the blasting site to the nearest protected structure.

Appendix D of 405 KAR 16:120

Blasting-level Equations

<u>Blasting vibration frequency</u>	<u>Blasting-level equation</u>
Hz < 4	$V = 0.19\text{Hz}^{0.7704}$
4 < Hz < 11	$V = 0.75$
11 < Hz < 30	$V = 0.0719\text{Hz}^{0.7716}$
Hz > 30	$V = 2.00$

where: Hz = the blast vibration frequency in hertz.

where: V = the maximum allowable particle velocity in inches per second.

[Appendix B of 405 KAR 16:120]

Maximum Weight of Explosives to be Detonated Within Any Eight (8) Millisecond Period

$$W = (D/60)^2$$

where W = the maximum weight of explosives, in pounds, that can be detonated in any eight (8) millisecond period

where D = the distance, in feet, from the blast to the nearest dwelling, school, church or commercial or institutional building

For distances between 300 and 5,000 feet, solution of the equation results in the following maximum weight:

<u>Distance in Feet</u>	<u>Maximum Weight</u>
(D)	in Pounds (W)
300	25
350	34
400	44
500	69
600	100
700	136
800	178
900	225
1,000	278
1,100	336
1,200	400
1,300	469
1,400	544
1,500	625
1,600	711
1,700	803
1,800	900
1,900	1,002
2,000	1,111
2,500	1,736
3,000	2,500

3,500	3,403
4,000	4,444
4,500	5,625
5,000	6,944]

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 29, 1985 at 10:00 a.m. in the Capital Plaza Tower auditorium. Written comments may be submitted on or before the scheduled hearing date. However, if no written notice of intent to attend and testify at the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending and testifying at this hearing shall notify in writing: George Risk, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: George Risk

(1) Type and number of entities affected: This regulation and 405 KAR 18:120 apply to approximately 1700 active surface coal mining operations. Also affected by this regulation are those citizens that own property near mines or who live near the mines that could be adversely affected by blasting operations.

(a) Direct and indirect costs or savings to those affected:

1. First year: This amendment should not affect costs to the industry significantly. Changes that could have minor effects on costs are the requirements to conduct periodic air blast monitoring, to have two persons present at the firing of a blast, and to file blast designs with the Department when blasting within 1000 feet of certain structures and 500 feet of underground mines.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None.

(b) Reporting and paperwork requirements: There is a new requirement to file blast designs prior to blasting within 1000 feet of a dwelling; public building; school; church; or commercial, community, or institutional building or within 500 feet of an underground mine.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Reviewing the blast designs described above will be an additional workload, but should not increase the agency's costs significantly.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: None.

(3) Assessment of anticipated effect on state and local revenues: None.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives are possible because these amendments are being made in response to corresponding changes in the federal regulations which govern the requirements for state programs.

(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: This regulation partially overlaps the Department of Mines and Minerals' regulations on blasting and explosives.

(a) Necessity of proposed regulation if in conflict: This regulation is necessary to comply with KRS Chapter 350 and the federal Surface Mining Law. This regulation contains some provisions not covered by the Mines and Minerals regulations and contains some more restrictive provisions.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes. This regulation has been modified to be compatible with the Mines and Minerals' regulations where it was possible to do so without violating the federal regulations.

(6) Any additional information or comments: None.

#### Tiering:

Was tiering applied? No. Tiering is not applicable to this regulation because these requirements need to apply equally to all surface mining operations that involve use of explosives. Furthermore, any attempt to apply tiering would be in violation of the federal regulations which govern the requirements for state programs.

#### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Surface Mining Reclamation and Enforcement (Proposed Amendment)

#### 405 KAR 18:120. Use of explosives.

RELATES TO: KRS 350.151, 350.430

PURSUANT TO: KRS Chapter 13A [13.082], 350.020, 350.028, 350.151, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during underground mining activities and for restoration and reclamation of surface areas affected by underground mining activities. This regulation sets forth specific requirements for the use of explosives for surface blasting, including qualified supervision of blasting, preblasting surveys, warning signals, restrictions on timing and location of blasting, limitations on airblast and ground vibration, seismographic measurements, and records of surface blasting operations.

Section 1. General Requirements. (1) This regulation applies only to surface blasting activities incident to underground mining, including [,] but not limited to, initial rounds of slopes and shafts.

(2) Each permittee and each person who conducts blasting operations shall comply with all applicable local, state, and federal laws and regulations in the use of explosives.

(3) (a) During the time before twelve (12) months after the approval of Kentucky's blaster certification program by OSM, all surface

blasting operations shall be conducted under the supervision of a blaster licensed by the Kentucky Department of Mines and Minerals by experienced, trained, and competent persons who understand the hazards involved. During this time a licensed blaster and at least one (1) other person shall be present at the firing of a blast.

(b) On and after twelve (12) months from the approval of Kentucky's blasting certification program by OSM, each permittee shall have all surface blasting operations conducted under the direction of a blaster certified in accordance with 405 KAR 7:070. On and after this date, a certified blaster and at least one (1) other person shall be present at the firing of a blast.

(c) Persons responsible for blasting operations at a blasting site shall be familiar with the blasting plan and site-specific performance standards.

(4)(a) An anticipated blast design shall be submitted if blasting operations will be conducted within:

1. 1,000 feet of any building used as a dwelling; public building; school; church; or commercial, community, or institutional building outside the areas affected by surface operations and facilities; or

2. 500 feet of an active or abandoned underground mine.

(b) The blast design may be presented as part of the permit application or at a time before the blast approved by the cabinet.

(c) The blast design shall contain sketches of the drill patterns, delay periods, and decking; shall indicate the types and amounts of explosives to be used, critical dimensions, and the locations of structures to be protected; shall include a general description of structures to be protected; and shall contain a discussion of design factors to be used, which protect the public and meet the applicable airblast, flyrock, and ground vibration standards in this regulation.

(d) The blast design shall be prepared and signed by a certified blaster.

(e) The cabinet may require changes to the design submitted in order to ensure compliance with KRS Chapter 350; SMCRA; and Title 405, Chapters 7 through 24.

Section 2. Preblasting Survey. (1) At least thirty (30) days before initiation of blasting, the permittee shall notify, in writing, all residents and owners of dwellings or other structures located within one-half (1/2) mile of the areas affected by surface operations and facilities how to request a preblasting survey in accordance with subsection (2) of this section.

(2) A resident or owner of a dwelling or other structure within one-half (1/2) mile of any part of the areas affected by surface operations and facilities may request a preblasting survey. This request shall be made in writing directly to the permittee or to the cabinet which shall promptly notify the permittee.

[(1) On the request to the cabinet by a resident or owner of a dwelling or structure that is located within one-half (1/2) mile of any surface blasting activity covered by this regulation,] The permittee shall promptly conduct a preblast survey of the dwelling or structure. If a structure is renovated,

modified, or added to[,] subsequent to a preblast survey, then, upon request [to the cabinet,] a survey of such additions and renovations shall be performed in accordance with this section.

(3)[(2)] The survey shall determine the condition of the dwelling or structure and document any [preblasting] damage and other physical conditions [factors] that could reasonably be affected by the blasting. [Assessments of] Structures such as pipelines [pipes], cables, transmission lines[,] and cisterns, wells, and other water systems warrant special attention; however, the assessment of these structures may [shall] be limited to surface condition and readily available data unless additional data are specifically required by the cabinet. [Special attention shall be given to the preblasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.]

(4)[(3)] A written report of the survey shall be promptly prepared and signed by the person who conducted the survey. The report may include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. If the resident or structure owner or his representative accompanies the surveyor, the report shall contain the name of such person. Copies of the report shall be promptly provided to the person requesting the survey and to the cabinet. If the person requesting the survey disagrees with the results of the survey, he or she may submit [notify], in writing[,], to both the permittee and the cabinet, a detailed description of the specific areas of disagreement. The cabinet may require resolution of disagreements, additional data on the subjects of disagreements, or additional measures to ensure that adequate and accurate information is included in the preblast survey and to ensure compliance with the requirements of this regulation.

(5) Any surveys requested more than ten (10) days before the planned initiation of blasting shall be completed by the permittee before the initiation of blasting.

### Section 3. Surface Blasting Requirements. (1) General requirements.

(a) The permittee shall notify, in writing, all residents and owners of dwellings or other structures within one-half (1/2) mile of the areas affected by surface operations and facilities, the appropriate department regional office, and local governments and public utilities of the proposed times and locations of blasting operations and the characters, patterns, and meanings of the warning and all-clear signals. Such notice shall be served no less than twenty-four (24) hours and no more than thirty (30) days before blasting will occur. [A resident or owner of a dwelling or structure that is located within one-half (1/2) mile of any area affected by surface blasting activities shall be notified approximately twenty-four (24) hours prior to any surface blasting event.]

(b)[(2)] All blasting shall be conducted between sunrise and sunset. [(a)] The cabinet may specify more restrictive time periods[,]

based on public requests or other relevant information and according to the need to adequately protect the public from adverse noise and other impacts.

[(b)] Blasting may, however, be conducted between sunset and sunrise if:

1. A blast that has been prepared during the day must be delayed due to the occurrence of an unavoidable hazardous condition and cannot be delayed until the next day because a potential safety hazard could [would] result that cannot be adequately mitigated;

2. Prior approval for conducting the blasting between sunset and sunrise is obtained from the Kentucky Department of Mines and Minerals;

3. [(2.)] In addition to the required warning signals, oral notices are provided to all persons within one-half (1/2) mile of the blasting site; and

4. [(3.)] A complete written report of blasting at night is filed by the permittee with the cabinet not later than three (3) days after the night blasting, not including Saturdays, Sundays, or legal holidays. The report shall include a detailed description [in detail] of the reasons for the delay in blasting including why the blasting could not be held over to the next day, identification of the time at which [when] the blast was actually conducted, a description of the warning notices given, and a copy of the blast record [report] required by Section 5.

(c) Unscheduled blasts may be conducted only where public or operator health and safety so require and for emergency blasting actions. When a permittee conducts an unscheduled blast, the permittee, using audible signals, shall notify all persons within one-half (1/2) mile of the blasting site and document the reason for the unscheduled blast in accordance with Section 5(16).

(d) The use of a charge weight of explosives in excess of 40,000 pounds in any blast shall not occur without a valid permit for such blasting from the Kentucky Department of Mines and Minerals. Such a permit shall be present at the blast site while such blasting is being conducted.

[(2)][(3)] Warnings. Warning and all-clear signals of different character or pattern that are audible within a range of one-half (1/2) mile from the point of the blast shall be given. Each person within the areas affected by surface operations and facilities [permit area] and each person who resides or regularly works within one-half (1/2) mile of the areas affected by surface operations and facilities [permit area] shall be notified of the meanings of the signals as identified in the blasting notification required in subsection (1) of this section through appropriate communications [instructions]. These notifications [instructions] shall be periodically delivered or otherwise communicated to such persons in a manner which can reasonably be expected to inform such persons of the meanings of the signals. Delivery or other appropriate communication of the meanings of such signals [instructions] to the [a] head of a household or to the person in charge of a place of business shall constitute sufficient notification of the meanings of such signals [communication of such instructions] to all persons at such household or place of business. Each permittee shall



maintain signs in accordance with 405 KAR 18:030, Section 6.

(3)[(4)] Access control. [Access to an area subject to flyrock from blasting shall be regulated to protect the public and livestock.] Access to the blasting area shall be controlled to prevent the presence of livestock or unauthorized personnel during blasting until the blaster [an authorized representative of the permittee] has reasonably determined:

(a) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(b) That access to and travel in or through the blasting area can be safely resumed.

(4)[(5)] (a) Airblast. Airblast shall be controlled so that it does not exceed the values specified in Appendix A of this regulation at any dwelling; public building; school; church; or commercial, community, or institutional building[,] outside the areas affected by surface operations and facilities except as provided in subsection (8) of this section. [unless such structure is owned or leased by the permittee and is not leased to any other person. If a building owned by the permittee is leased to another person, the lessee may sign a waiver relieving the permittee from meeting the airblast limitations of Appendix A of this regulation.]

(b) In all cases except those involving the use of C-weighted, slow-response devices, the measuring systems used shall [must] have a flat frequency response of at least 200 Hz at the upper end. The C-weighted shall be measured with a Type 1 sound level meter that meets the standard American National Standards Institute (ANSI) S1.4 1971 specifications.

(c) If necessary to prevent damage, the cabinet shall specify lower maximum allowable airblast levels than those in Appendix A of this regulation for use in the vicinity of a specific blasting operation. [The permittee may satisfy the provisions of this section by meeting any one (1) of the four (4) specifications in Appendix A of this regulation.]

(d) The permittee shall conduct periodic monitoring to ensure compliance with the airblast standards. The cabinet may require [an] airblast measurements of any or all blasts[,] and may specify the locations of such measurements.

[(6) Except where lesser distances are approved by the cabinet, based upon a preblasting survey, seismic investigations, or other appropriate investigations, and based on the provisions of 405 KAR 24:040, blasting shall not be conducted within:]

[(a) 300 feet of any building used as a dwelling, school, church, hospital, or nursing facility; or]

[(b) 300 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines.]

(5) [(7)] Flyrock. Flyrock, including blasted material traveling along the ground, shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling; public building; school; church; commercial, community, or institutional building; or any [other] occupied structure and in no case beyond the boundary of the areas affected by surface

operations and facilities [permit area], or beyond the area of regulated access required under subsection (3) [(4)] of this section.

(6) [(8)] Prevention of adverse impacts. Blasting shall be conducted to prevent injury to persons;[,] damage to public and [or] private properties [property] outside the [permit] areas affected by surface operations and facilities; [.] adverse impacts on any underground mine; [.] and] changes in the courses, channels, and [or] availability of [ground or] surface waters outside the [permit] areas affected by surface operations and facilities; and alterations of the ground water flow systems and ground water availability outside the areas affected by surface operations and facilities.

(7) Ground vibration. (a) General. In all blasting operations except as otherwise authorized by subsection (8) of this section, the maximum ground vibration shall not exceed the values approved in the blasting plan required under 405 KAR 8:040. The maximum ground vibration at the location of any dwelling; public building; school; church; or commercial, community, or institutional building outside the areas affected by surface operations and facilities shall be established in accordance with either the maximum peak particle velocity limits of paragraph (b), in accordance with the scale-distance equations of paragraph (c), in accordance with the blasting-level equations of paragraph (d), or by the cabinet pursuant to paragraph (e). All other structures in the vicinity of the blasting area, such as water towers, pipelines, and other utilities; tunnels; dams; impoundments; and underground mines shall be protected from damage by establishment of a maximum allowable limit on the ground vibration proposed by the applicant in the blasting plan and approved by the cabinet.

(b) Maximum peak particle velocity. The maximum ground vibration shall not exceed the limits established in Appendix B of this regulation at the location of any dwelling; public building; school; church; or commercial, community, or institutional building outside the areas affected by surface operations and facilities. Seismographic records shall be recorded for each blast.

(c) Scale-distance equations.

1. A permittee may use the scale-distance equations of Appendix C of this regulation to determine the allowable charge weight of explosives to be detonated within any eight (8) millisecond period without seismic monitoring.

2. The development of a modified scale-distance factor may be authorized by the cabinet based on a written request by the permittee supported by seismographic records of blasting at the minesite. The modified scale distance factor shall be determined such that the particle velocity of the predicted ground vibration will not exceed the limits established in Appendix B of this regulation at a ninety-five (95) percent confidence level.

(d) Blasting-level equations. A permittee may use the ground vibration limits calculated from the blasting-level equations in Appendix D of this regulation to determine the maximum allowable ground vibration. If the blasting-level equations are used, a seismographic record including both particle velocity and vibration-frequency levels shall be provided for each blast. The method for the



modified, or added to[,] subsequent to a preblast survey, then, upon request [to the cabinet,] a survey of such additions and renovations shall be performed in accordance with this section.

(3)[(2)] The survey shall determine the condition of the dwelling or structure and document any [preblasting] damage and other physical conditions [factors] that could reasonably be affected by the blasting. [Assessments of] Structures such as pipelines [pipes], cables, transmission lines[,] and cisterns, wells, and other water systems warrant special attention; however, the assessment of these structures may [shall] be limited to surface condition and readily available data unless additional data are specifically required by the cabinet. [Special attention shall be given to the preblasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.]

(4)[(3)] A written report of the survey shall be promptly prepared and signed by the person who conducted the survey. The report may include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. If the resident or structure owner or his representative accompanies the surveyor, the report shall contain the name of such person. Copies of the report shall be promptly provided to the person requesting the survey and to the cabinet. If the person requesting the survey disagrees with the results of the survey, he or she may submit [notify], in writing[,] to both the permittee and the cabinet, a detailed description of the specific areas of disagreement. The cabinet may require resolution of disagreements, additional data on the subjects of disagreements, or additional measures to ensure that adequate and accurate information is included in the preblast survey and to ensure compliance with the requirements of this regulation.

(5) Any surveys requested more than ten (10) days before the planned initiation of blasting shall be completed by the permittee before the initiation of blasting.

### Section 3. Surface Blasting Requirements. (1) General requirements.

(a) The permittee shall notify, in writing, all residents and owners of dwellings or other structures within one-half (1/2) mile of the areas affected by surface operations and facilities, the appropriate department regional office, and local governments and public utilities of the proposed times and locations of blasting operations and the characters, patterns, and meanings of the warning and all-clear signals. Such notice shall be served no less than twenty-four (24) hours and no more than thirty (30) days before blasting will occur. [A resident or owner of a dwelling or structure that is located within one-half (1/2) mile of any area affected by surface blasting activities shall be notified approximately twenty-four (24) hours prior to any surface blasting event.]

(b)[(2)] All blasting shall be conducted between sunrise and sunset. [(a)] The cabinet may specify more restrictive time periods[,]

based on public requests or other relevant information and according to the need to adequately protect the public from adverse noise and other impacts.

[(b)] Blasting may, however, be conducted between sunset and sunrise if:

1. A blast that has been prepared during the day must be delayed due to the occurrence of an unavoidable hazardous condition and cannot be delayed until the next day because a potential safety hazard could [would] result that cannot be adequately mitigated;

2. Prior approval for conducting the blasting between sunset and sunrise is obtained from the Kentucky Department of Mines and Minerals;

3.[2.] In addition to the required warning signals, oral notices are provided to all persons within one-half (1/2) mile of the blasting site; and

4.[3.] A complete written report of blasting at night is filed by the permittee with the cabinet not later than three (3) days after the night blasting, not including Saturdays, Sundays, or legal holidays. The report shall include a detailed description [in detail] of the reasons for the delay in blasting including why the blasting could not be held over to the next day, identification of the time at which [when] the blast was actually conducted, a description of the warning notices given, and a copy of the blast record [report] required by Section 5.

(c) Unscheduled blasts may be conducted only where public or operator health and safety so require and for emergency blasting actions. When a permittee conducts an unscheduled blast, the permittee, using audible signals, shall notify all persons within one-half (1/2) mile of the blasting site and document the reason for the unscheduled blast in accordance with Section 5(16).

(d) The use of a charge weight of explosives in excess of 40,000 pounds in any blast shall not occur without a valid permit for such blasting from the Kentucky Department of Mines and Minerals. Such a permit shall be present at the blast site while such blasting is being conducted.

(2)[(3)] Warnings. Warning and all-clear signals of different character or pattern that are audible within a range of one-half (1/2) mile from the point of the blast shall be given. Each person within the areas affected by surface operations and facilities [permit area] and each person who resides or regularly works within one-half (1/2) mile of the areas affected by surface operations and facilities [permit area] shall be notified of the meanings of the signals as identified in the blasting notification required in subsection (1) of this section through appropriate communications [instructions]. These notifications [instructions] shall be periodically delivered or otherwise communicated to such persons in a manner which can reasonably be expected to inform such persons of the meanings of the signals. Delivery or other appropriate communication of the meanings of such signals [instructions] to the [a] head of a household or to the person in charge of a place of business shall constitute sufficient notification of the meanings of such signals [communication of such instructions] to all persons at such household or place of business. Each permittee shall

maintain signs in accordance with 405 KAR 18:030, Section 6.

(3)[(4)] Access control. [Access to an area subject to flyrock from blasting shall be regulated to protect the public and livestock.] Access to the blasting area shall be controlled to prevent the presence of livestock or unauthorized personnel during blasting until the blaster [an authorized representative of the permittee] has reasonably determined:

(a) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(b) That access to and travel in or through the blasting area can be safely resumed.

(4)[(5)] (a) Airblast. Airblast shall be controlled so that it does not exceed the values specified in Appendix A of this regulation at any dwelling; public building; school; church; or commercial, community, or institutional building[,] outside the areas affected by surface operations and facilities except as provided in subsection (8) of this section. [unless such structure is owned or leased by the permittee and is not leased to any other person. If a building owned by the permittee is leased to another person, the lessee may sign a waiver relieving the permittee from meeting the airblast limitations of Appendix A of this regulation.]

(b) In all cases except those involving the use of C-weighted, slow-response devices, the measuring systems used shall [must] have a flat frequency response of at least 200 Hz at the upper end. The C-weighted shall be measured with a Type 1 sound level meter that meets the standard American National Standards Institute (ANSI) S1.4 1971 specifications.

(c) If necessary to prevent damage, the cabinet shall specify lower maximum allowable airblast levels than those in Appendix A of this regulation for use in the vicinity of a specific blasting operation. [The permittee may satisfy the provisions of this section by meeting any one (1) of the four (4) specifications in Appendix A of this regulation.]

(d) The permittee shall conduct periodic monitoring to ensure compliance with the airblast standards. The cabinet may require [an] airblast measurements of any or all blasts[,] and may specify the locations of such measurements.

[(6) Except where lesser distances are approved by the cabinet, based upon a preblasting survey, seismic investigations, or other appropriate investigations, and based on the provisions of 405 KAR 24:040, blasting shall not be conducted within:]

[(a) 300 feet of any building used as a dwelling, school, church, hospital, or nursing facility; or]

[(b) 300 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines.]

(5) [(7)] Flyrock. Flyrock, including blasted material traveling along the ground, shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling; public building; school; church; commercial, community, or institutional building; or any [other] occupied structure and in no case beyond the boundary of the areas affected by surface

operations and facilities [permit area], or beyond the area of regulated access required under subsection (3) [(4)] of this section.

(6) [(8)] Prevention of adverse impacts. Blasting shall be conducted to prevent injury to persons;[,] damage to public and [or] private properties [property] outside the [permit] areas affected by surface operations and facilities; [.] adverse impacts on any underground mine; [, and] changes in the courses, channels, and [or] availability of [ground or] surface waters outside the [permit] areas affected by surface operations and facilities; and alterations of the ground water flow systems and ground water availability outside the areas affected by surface operations and facilities.

(7) Ground vibration. (a) General. In all blasting operations except as otherwise authorized by subsection (8) of this section, the maximum ground vibration shall not exceed the values approved in the blasting plan required under 405 KAR 8:040. The maximum ground vibration at the location of any dwelling; public building; school; church; or commercial, community, or institutional building outside the areas affected by surface operations and facilities shall be established in accordance with either the maximum peak particle velocity limits of paragraph (b), in accordance with the scale-distance equations of paragraph (c), in accordance with the blasting-level equations of paragraph (d), or by the cabinet pursuant to paragraph (e). All other structures in the vicinity of the blasting area, such as water towers, pipelines, and other utilities; tunnels; dams; impoundments; and underground mines shall be protected from damage by establishment of a maximum allowable limit on the ground vibration proposed by the applicant in the blasting plan and approved by the cabinet.

(b) Maximum peak particle velocity. The maximum ground vibration shall not exceed the limits established in Appendix B of this regulation at the location of any dwelling; public building; school; church; or commercial, community, or institutional building outside the areas affected by surface operations and facilities. Seismographic records shall be recorded for each blast.

(c) Scale-distance equations.

1. A permittee may use the scale-distance equations of Appendix C of this regulation to determine the allowable charge weight of explosives to be detonated within any eight (8) millisecond period without seismic monitoring.

2. The development of a modified scale-distance factor may be authorized by the cabinet based on a written request by the permittee supported by seismographic records of blasting at the minesite. The modified scale distance factor shall be determined such that the particle velocity of the predicted ground vibration will not exceed the limits established in Appendix B of this regulation at a ninety-five (95) percent confidence level.

(d) Blasting-level equations. A permittee may use the ground vibration limits calculated from the blasting-level equations in Appendix D of this regulation to determine the maximum allowable ground vibration. If the blasting-level equations are used, a seismographic record including both particle velocity and vibration-frequency levels shall be provided for each blast. The method for the

analysis of the predominate frequency contained in the blasting records shall be approved by the cabinet before application of this alternative blasting criterion.

(e) The maximum allowable ground vibration shall be reduced by the cabinet beyond the limits of this subsection if the cabinet determines that lower limits are necessary to provide damage protection and ensure compliance with subsection (6) of this section.

[(9) In all blasting operations, except as otherwise authorized in this section, the maximum peak particle velocity shall not exceed one (1) inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building. The maximum peak particle velocity shall be recorded as either the largest of the peak particle velocities measured in three (3) mutually perpendicular directions, or the vector sum thereof. The cabinet may reduce the maximum peak particle velocity allowed, if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts, or other factors.]

(8) [(10)] [Provided that blasting is conducted to prevent adverse impacts on any underground mine and changes in the course, channel, or availability of ground or surface water outside the permit area, then] The maximum airblast and ground vibration standards [peak particle velocity limitation] of [subsection (9) of] this section shall not apply at the following locations:

(a) At structures owned by the permittee [or person conducting the blasting operation,] and not leased to another party; and [.]

(b) At structures owned by the permittee [or person conducting the blasting operation,] and leased to another party, if a written waiver by the lessee is submitted to the cabinet prior to blasting.

[(11) An equation for determining the maximum weight of explosives that can be detonated within any eight (8) millisecond period is in Appendix B of this regulation. If the blasting is conducted in accordance with this equation, the peak particle velocity shall be deemed to be within the one (1) inch-per-second limit.]

Section 4. Seismographic Measurements. (1) The maximum peak particle velocity shall be recorded as either the largest of the peak particle velocities measured in three (3) mutually perpendicular directions or the vector sum thereof. [Where a seismograph is used to monitor the velocity of ground motion and the peak particle velocity limit of one (1) inch per second is not exceeded, the equation in Appendix B of this regulation need not be used. If that equation is not used by the permittee, a seismographic record shall be obtained for each shot.]

[(2) The use of a modified equation from that specified in Appendix B of this regulation, to determine maximum weight of explosives per delay for blasting operations at a particular site, may be approved by the cabinet, on receipt of a petition accompanied by reports including seismograph records of test blasting on the site. In no case shall the cabinet approve the use of a modified equation where the peak particle velocity of one (1) inch per second

required in Section 3(9) would be exceeded.]

(2) [(3)] The cabinet may require a permittee to conduct seismic monitoring [seismograph record] of any or all blasts and may specify the location at which such measurements are taken and the degree of detail necessary in the measurement.

Section 5. Records of Blasting Operations. A record of each blast, including any required seismograph reports, shall be retained for at least five (5) [three (3)] years and shall be available for inspection by the cabinet and the public on request. The record shall contain the following data:

(1) Name of the permittee [person conducting the blasting operations].

(2) Location, date, and time of the blast.

(3) Name, signature, certification number, and license number of the blaster in charge of the blast [-in-charge].

(4) Identification of and direction and distance, in feet, from the nearest blast hole to the nearest dwelling; public building; school; church; or commercial, community, or institutional building outside the permit area, except those described in Section 4(8) of this regulation. [either:]

[(a) Not located in the permit area; or]

[(b) Not owned nor leased by the permittee.]

(5) Weather conditions, including those which may cause possible adverse blasting effects. [temperature, wind direction, and approximate velocity.]

(6) Type of material blasted.

(7) Sketches of the blast pattern including number of holes, burden, [and] spacing, decks, and delay pattern.

(8) Diameter and depth of holes.

(9) Types of explosives used.

(10) Total weight of explosives used.

(11) [(10)] Total weight of explosives used per hole.

(12) [(11)] Maximum weight of explosives detonated within any eight (8) millisecond period.

(13) [(12)] Maximum number of holes detonated within any eight (8) millisecond period.

(14) [(13)] Type of initiation system.

(15) Type of circuit.

(16) [(14)] Type and length of stemming.

(17) [(15)] Mats or other protection[s] used.

(18) [(16)] Type of delay detonator and delay periods used.

[(17) Sketch of the delay pattern.]

[(18) Number of persons in the blasting crew.]

(19) Seismographic and airblast records, if used, which include for each record:

(a) Type of instrument, sensitivity, and either calibration signal or certification of annual calibration;

(b) Exact location of instrument and the date of, time of, and distance from the blast;

(c) For seismographic records, the actual seismographic record.

(d) Name of the person and firm taking the reading;

(e) Name of the person and firm analyzing the seismographic record; and

(f) As applicable, vibration and airblast levels recorded.

(20) Reasons and conditions for each unscheduled blast.

[(19) Seismographic records, where required,

# ADMINISTRATIVE REGISTER - 1300

including the calibration signal of the gain setting and;]

[(a) Seismograph reading, including exact location of seismograph and its distance from the blast;]

[(b) Name of the person taking the seismograph reading; and]

[(c) Name of person and firm analyzing the seismograph record.]

## Appendix A of 405 KAR 18:120

### Airblast Limitations

Lower frequency limit of measuring system in [,] Hz ( $\pm 3$ dB)	Maximum level in dB
*0.1 Hz or lower - flat response	134[5] peak
2 Hz or lower - flat response	133[2] peak
6 Hz or lower - flat response	129[30] peak
*C-weighted, slow response	105 peak dBC [109C.]

\*These measuring systems shall be used only when approved by the cabinet.

## Appendix B of 405 KAR 18:120

### Peak Particle Velocity Limits

Distance from the blasting site in feet	Maximum allowable peak particle velocity for ground vibration in inches per second
0 to 300	1.25
301 to 5,000	1.00
5,001 and beyond	0.75

## Appendix C of 405 KAR 18:120

### Scale-distance Equations

Distance (D) from the blasting site in feet	Scale-distance equation
0 to 300	$W = (D/50)^2$
301 to 5,000	$W = (D/55)^2$
5,001 and beyond	$W = (D/65)^2$

where: W = the maximum weight of explosives that can be detonated within any eight (8) millisecond period.

where: D = the distance, in feet, from the blasting site to the nearest protected structure.

## Appendix D of 405 KAR 18:120

### Blasting-level Equations

Blasting vibration frequency	Blasting-level equation
Hz < 4	$V = 0.19 \text{ Hz}^{0.7704}$
4 < Hz < 11	$V = 0.75$
11 < Hz < 30	$V = 0.0712 \text{ Hz}^{0.7716}$
Hz > 30	$V = 2.00$

where: Hz = the blast vibration frequency in hertz.

where: V = the maximum allowable particle velocity in inches per second.

## [Appendix B of 405 KAR 18:120

Maximum Weight of Explosives to be Detonated Within Any Eight (8) Millisecond Period

$$W = (D/60)^2$$

where W = the maximum weight of explosives, in pounds, that can be detonated in any eight (8) millisecond period

where D = the distance, in feet, from the blast to the nearest dwelling, school, church or commercial or institutional building

For distances between 300 and 5,000 feet, solution of the equation results in the following maximum weight:

Distance in Feet	Maximum Weight
(D)	in Pounds (W)
300	25
350	34
400	44
500	69
600	100
700	136
800	178
900	225
1,000	278
1,100	336
1,200	400
1,300	469
1,400	544
1,500	625
1,600	711
1,700	803
1,800	900
1,900	1,002
2,000	1,111
2,500	1,736
3,000	2,500
3,500	3,403
4,000	4,444
4,500	5,625
5,000	6,944]

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 29, 1985 at 10:00 a.m. in the Capital Plaza Tower auditorium. Written comments may be submitted on or before the scheduled hearing date. However, if no written notice of intent to attend and testify at the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending and testifying at this hearing shall notify in writing: George Risk, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: George Risk

(1) Type and number of entities affected: This regulation and 405 KAR 16:120 apply to approximately 1700 active surface coal mining operations. Also affected by this regulation are those citizens that own property near mines or who live near the mines that could be adversely affected by blasting operations.

(a) Direct and indirect costs or savings to those affected:

1. First year: This amendment should not affect costs to the industry significantly. Changes that could have minor effects on costs are the requirements to conduct periodic air blast monitoring, to have two persons present at the firing of a blast, and to file blast designs with the Department when blasting within 1000 feet of certain structures and 500 feet of underground mines.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None.

(b) Reporting and paperwork requirements: There is a new requirement to file blast designs prior to blasting within 1000 feet of a dwelling; public building; school; church; or commercial, community, or institutional building or within 500 feet of an underground mine.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Reviewing the blast designs described above will be an additional workload, but should not increase the agency's costs significantly.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: None.

(3) Assessment of anticipated effect on state and local revenues: None.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives are possible because these amendments are being made in response to corresponding changes in the federal regulations which govern the requirements for state programs.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This regulation partially overlaps the Department of Mines and Minerals' regulations on blasting and explosives.

(a) Necessity of proposed regulation if in conflict: This regulation is necessary to comply with KRS Chapter 350 and the federal Surface Mining Law. This regulation contains some provisions not covered by the Mines and Minerals regulations and contains some more restrictive provisions.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes. This regulation has been modified to be compatible with the Mines and Minerals' regulations where it was possible to do so without violating the federal regulations.

(6) Any additional information or comments: None.

Tiering:

Was tiering applied? No. Tiering is not applicable to this regulation because these requirements need to apply equally to all surface mining operations that involve use of explosives. Furthermore, any attempt to apply tiering would be in violation of the federal regulations which govern the requirements for state programs.

PUBLIC PROTECTION AND REGULATION CABINET  
Public Service Commission  
(Proposed Amendment)

807 KAR 5:001. Rules of procedure.

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS [13.082,] 278.310(2)

NECESSITY AND FUNCTION: KRS 278.310(2) provides that all hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission. This regulation prescribes requirements with respect to formal and informal proceedings before the commission.

Section 1. General Offices and Hearings. (1) The commission will be in continuous session for the performance of administrative duties.

(2) Meetings of the commission for the consideration of all matters requiring formal hearings will be held on such days, at such hours and at such places as the commission may designate.

(3) Notice of hearing will be given by the secretary to parties to proceedings before the commission, except when a hearing is not concluded on the day appointed therefor and verbal announcement is made by the presiding commissioner or hearing examiner of an adjourned date. Verbal announcements so made shall be deemed due notice of continued hearing.

Section 2. Secretary to Furnish Information.

(1) Upon request, the secretary will advise any party as to the form of a petition, complaint, answer, application or other paper desired to be filed; and he will make available from the commission's files, upon request, any document or record pertinent to any matter before the commission.

(2) The secretary may reject for filing any document which on its face does not comply with the rules and regulations of the commission.

Section 3. General Matters Pertaining to All Formal Proceedings.

(1) Address of the commission. All communications should be addressed to "Public Service Commission, Frankfort, Kentucky."

(2) Case numbers and styles. Each matter coming formally before the commission will be known as a case and will receive a number and style, descriptive of the subject matter. Such number and style shall be placed on all subsequent papers in such case.

(3) Form of papers filed. All pleadings and applications filed with the commission in formal proceedings shall be printed or typewritten on one (1) side of the paper only, and typewriting shall be double spaced.

(4) Signing of pleadings. Every pleading of a party represented by an attorney shall be signed

by at least one (1) attorney of record in his individual name and shall state his address. Except when otherwise specifically provided by statute, pleadings need not be verified or accompanied by affidavit.

(5) Amendment. At its discretion, the commission may allow any complaint, application, answer or other paper to be amended or corrected or any omission supplied therein.

(6) Witnesses and subpoenas:

(a) Upon the application of any party to a proceeding, subpoenas requiring the attendance of witnesses for the purpose of taking testimony may be signed and issued by a member of the commission.

(b) Subpoenas for the production of books, accounts, papers or records (unless directed to issue by the commission on its own authority) will be issued only at the discretion of the commission, or any commissioner, upon application in writing, stating as nearly as possible the books, accounts, papers or records desired to be produced.

(7) Service of process. When any party has appeared by attorney, service upon such attorney will be deemed proper service upon the party.

(8) Intervention and parties. In any formal proceeding, any person who wishes to become a party to a proceeding before the commission may by timely motion request that he be granted leave to intervene. Such motion shall include his name and address and the name and address of any party he represents and in what capacity he is employed by such party.

Each person granted leave to intervene shall be considered as making a limited intervention unless he submits to the secretary a written request for full intervention. A person making only a limited intervention shall be entitled to the full rights of a party at the hearing in which he appears and shall be served with the commission's order, but he shall not be served with filed testimony, exhibits, pleadings, correspondence and all other documents submitted by parties. A person making a limited appearance will not be certified as a party for the purposes of receiving service of any petition for rehearing or petition for judicial review.

If a person granted leave to intervene desires to be served with filed testimony, exhibits, pleadings, correspondence and all other documents submitted by parties, and to be certified as a party for the purposes of receiving service of any petition for rehearing or petition for judicial review, he shall submit in writing to the secretary a request for full intervention, which shall specify his interest in the proceeding. If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Section 4. Hearings and Rehearings. (1) When hearings will be granted. Except as otherwise determined in specific cases, the commission will grant a hearing in the following classes of cases:

(a) When an order to satisfy a complaint or to make answer thereto has been made and the

corporation or person complained of has not satisfied the complaint to the satisfaction of the commission.

(b) When application has been made in a formal proceeding.

(2) Publication of notice. Upon the filing of any application the commission may, in its discretion, give all other corporations or persons who may be affected thereby an opportunity to be heard by service upon them of a copy of the petition or by publication of the substance thereof, at the expense of the applicant, for such length of time and in such newspaper or newspapers as the commission may designate. In such cases the form of notice will be prepared by the secretary, and a proof of the publication thereof must be filed at or before the hearing.

(3) Investigation on commission's own motion. The commission may at any time, on its own motion, make investigations and order hearings into any act or thing done or omitted to be done by the public utility, which the commission may believe is in violation of any provision of law or of any order or regulation of the commission. It may also through its own experts or employees, or otherwise, obtain such evidence as it may consider necessary or desirable in any formal proceeding in addition to the evidence presented by the parties.

(4) Conferences with commission staff. In order to provide opportunity for settlement of a proceeding or any of the issues therein, an informal conference with the commission staff may be arranged through the secretary of the commission either prior to, or during the course of hearings in any proceeding, at the request of any party.

(5) Conduct of hearings. Hearings will be conducted before the commission or a commissioner or before a person designated by the commission to conduct a specific hearing.

(6) Stipulation of facts. By a stipulation in writing, filed with the secretary, the parties to any proceeding or investigation by the commission may agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing.

(7) Testimony. All testimony given before the commission will be given under oath or affirmation.

(8) Objections and exceptions. When objections are made to the admission or exclusion of evidence before the commission, the grounds relied upon shall be stated briefly. Formal exceptions are unnecessary and will not be taken to rulings therein.

(9) Transcript of evidence. The commission will cause to be made a stenographic record of all public hearings, and such copies of the transcript thereof as it requires for its own purposes. Participants desiring copies of such transcripts may obtain the same from the official reporter upon payment of the fees fixed therefor.

(10) Briefs and petitions for rehearing. All briefs and petitions for rehearing in any proceeding must be accompanied with notice, showing service upon all other parties or their attorneys, and, in addition to the filed original, ten (10) copies of each such document shall be furnished for the use of the commission.

(11) Filing of briefs. All briefs must be

filed within the time fixed, and the commission may refuse to consider any brief filed thereafter. Applications for extensions of time to file briefs must be made to the commission in writing.

(12) Form of briefs. All briefs filed with the commission shall be in the form prescribed by the commission.

Section 5. Documentary Evidence. (1) If documentary evidence is offered, the commission, in lieu of requiring the originals to be filed may, in its discretion, accept certified, or otherwise authenticated, copies of such documents or such portions of the same as may be relevant, or may require such evidence to be transcribed as a part of the record.

(2) Where relevant and material matter offered in evidence by any party is embraced in a book, paper or document containing other matter not material or relevant the party must plainly designate the matter so offered. If such immaterial matter unnecessarily encumbers the record, such book, paper or document will not be received in evidence, but may be worded for identification, and if properly authenticated, the relevant and material matter may be read into the record, or if the commission, or commissioner conducting the hearing, so directs, a true copy of such matter in proper form shall be received as an exhibit, and like copies delivered by the parties offering same to opposing parties, or their attorneys, appearing at the hearing, who shall be offered opportunity to examine such book, paper or document, and to offer evidence in like manner other portions thereof if found to be material and relevant.

(3) Whenever practicable the sheets of each exhibit and the lines of each sheet shall be numbered and if the exhibit consists of two (2) or more sheets, the first sheet or title page shall contain a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained in the exhibit. Wherever practicable, rate comparisons and other such evidence shall be condensed into tables.

(4) Except as may be expressly permitted in particular instances, the commission will not receive in evidence or consider as a part of the record any book, paper or other document for consideration in connection with the proceeding after the close of the testimony.

(5) Upon motion of any party to a proceeding, any case in the commission's files or any document on file with the commission, at the discretion of the commission may be made a part of the record by "reference only." By reference only, the case or document made a part of the record will not be physically incorporated into the record. Upon action in the Franklin Circuit Court, excerpts from any case or part only of any document may be made, at the instance of any party, a part of the record before such court.

Section 6. Financial Exhibit. Whenever in these rules it is provided that a financial exhibit shall be annexed to the application, the said exhibit shall cover operations for a twelve (12) month period, said period ending not more than ninety (90) days prior to the date the application is filed. The said exhibit shall disclose the following information in the order indicated below:

(1) Amount and kinds of stock authorized.

(2) Amount and kinds of stock issued and outstanding.

(3) Terms of preference of preferred stock whether cumulative or participating, or on dividends or assets or otherwise.

(4) Brief description of each mortgage on property of applicant, giving date of execution, name of mortgagor, name of mortgagee, or trustee, amount of indebtedness authorized to be secured thereby, and the amount of indebtedness actually secured, together with any sinking fund provisions.

(5) Amount of bonds authorized, and amount issued, giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.

(6) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.

(7) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

(8) Rate and amount of dividends paid during the five (5) previous fiscal years, and the amount of capital stock on which dividends were paid each year.

(9) Detailed income statement and balance sheet.

Section 7. Confidential Information not Publicly Available. All material and information that is filed with, served upon, or otherwise made available to the Commission shall be available for examination by the public unless a written request has been made to designate material or information as proprietary, confidential or otherwise privileged, according to the procedure set forth in subsection (2) of this section.

(2) Procedure for petition for confidentiality.

(a) Any person wishing to protect material or information filed with, served upon or otherwise made available to the commission shall file with the commission a formal written petition identifying the material or information sought to be protected and setting forth the specific facts, reasons, or other grounds upon which the commission should classify that material or information as proprietary, confidential or otherwise privileged, with particular attention to the appropriate factors listed in subsection (7) of this section. Material for which confidential treatment is sought shall be identified by underscoring or by highlighting with transparent ink, only those words, numbers, lines of text and data elements on magnetic files which, unless deleted, would cause the disclosure of confidential information. Text, pages or portions thereof which do not contain confidential information are not to be included in this identification.

(b) The person requesting confidential treatment of material or information shall also



serve a copy of its petition upon all parties, if the material or information is being filed in the record of a formal proceeding.

(c) Any person may respond to the petition for confidential treatment within ten (10) days after service thereof.

(d) Pending commission action on a written petition, the material or information specifically identified shall be temporarily accorded confidential treatment.

(e) In the event material or information which has been accorded confidential treatment by the commission later becomes publicly available or is treated or viewed by the source of the material or information as no longer warranting confidential treatment, the source of the information shall so advise the commission in writing. The commission will then make this material a part of the public record of the case.

### (3) Burden of proof and standard of review.

(a) The burden of proof to show by a preponderance of the evidence that any or all of the contents of material or information require confidential treatment shall rest upon the source of the material or information.

(b) Upon a ruling that portions of material or information contain confidential information, the source of the information shall file an edited copy with confidential material obscured for inclusion in the public record with copies to all parties of record.

### (4) Discovery.

(a) The fact that the object of discovery may contain confidential information does not preclude discovery per se, but it may justify such limitations as are deemed necessary under the circumstances to protect the confidentiality of the material or information.

(b) All parties to formal proceedings are urged to seek mutual agreement regarding discovery of such material before raising the controversy with the commission.

(c) A utility may not object to discovery by the commission or its staff on the grounds of confidentiality; rather it shall file full and timely responses to discovery requests. Parties to the formal proceeding shall receive timely responses to discovery with only those portions for which confidential treatment is sought deleted in accordance with Section 2 of this regulation. Confidential material or information in the possession of the commission, its staff or consultants is not discoverable by a request to the commission, but may be the subject of a request for access pursuant to Section 5 of this regulation.

### (5) Procedure for request for access.

(a) Any person may file a written request with the commission for access to confidential material or information in the possession of the commission. Such a request shall specify the material or information for which access is sought and shall fairly address any earlier finding of confidentiality and state why it should be overturned.

(b) The sources of the confidential material or information shall be served with a copy of the request for access by the commission secretary, and the source shall file an response to the request within ten (10) days after service. Thereafter, the commission will rule forthwith on whether access shall be granted to the moving party.

(c) Notwithstanding any prior determination of

confidentiality, a source may consent, in writing, to grant access to any person. Such consent shall not constitute waiver of confidentiality and only those persons specified in the consent may have access.

(6) Use of confidential material or information during formal proceedings. The commission may rely upon confidential material during a formal proceeding and such material, if otherwise admissible, will be received in evidence. In such event, reasonable precautions will be taken to segregate confidential material in the record and otherwise protect its integrity.

(7) Guidelines for evaluating petitions for confidential treatment.

(a) In the instance where a petition is filed seeking confidential treatment of material or information claimed to be a trade secret, the commission may consider the following factors, in addition to relevant statutes and case law in reaching its decision:

1. The extent to which the information is known outside of the claimant's business.

2. The extent to which it is known by employees and others involved in the claimant's business.

3. The extent of measures taken by the claimant to guard the secrecy of the information.

4. The value of the information to the claimant and to competitors.

5. The amount of effort or money expended by the claimant in developing the information.

6. The ease or difficulty with which the information could be properly acquired and duplicated by others.

(b) In the instance where a petition is filed seeking confidential treatment of material or information claimed to be confidential commercial information, the commission may consider the following factors, in addition to relevant statutes and case law, in reaching its decision:

1. Evidence revealing actual competition and the likelihood of substantial competitive injury.

2. The extent to which data of the sort in dispute is customarily disclosed to the public.

3. A balancing of the private competitive interests versus the public interest in disclosure.

(8) Return or retention of confidential material or information. Within sixty (60) days following the entry of a final order in a formal proceeding in which no court appeal is taken, the commission shall return confidential material or information to its source, unless the commission determines in its discretion that the confidential material or information should be retained. If retained, the commission shall continue to accord confidential treatment to the material or information.

Section 8. [7.] Applications. (1) Contents of application. All applications must be by petition in writing. The petition must set forth the full name and post office address of the applicant, and must contain fully the facts on which the application is based, with a request for the order, authorization, permission or certificate desired and a reference to the particular provision of law requiring or providing for same.

(2) Number of copies. At the time the original application is filed, ten (10) additional copies



must also be filed, and where parties interested in the subject matter of the application are named therein, there shall be filed an additional copy for each named party and such other additional copies as may be required by the secretary.

(3) Articles of incorporation. If the applicant is a corporation, a certified copy of its articles of incorporation, and all amendments thereto, if any, shall be annexed to the application. If applicant's articles of incorporation and amendments thereto, if any, have already been filed with the commission in some prior proceeding, it will be sufficient if this fact is stated in the application and reference is made to the style and case number of the prior proceeding.

Section 9. [8.] Applications for Certificates of Public Convenience and Necessity. (1) Application to bid on a franchise pursuant to KRS 278.020(3). Upon application to the commission by the utility for a certificate of convenience and necessity authorizing applicant to bid on a franchise, license or permit offered by any governmental agency, the applicant shall submit with its application, the following:

(a) A copy of its articles of incorporation. (See Section 7(3))

(b) The name of the governmental agency offering the franchise.

(c) The type of franchise offered.

(d) A statement showing the need and demand for service. Should the applicant be successful in acquiring said franchise, license or permit, it shall file a copy thereof with the commission.

(2) New construction or extension. When application is made by the utility, person, firm, or corporation for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property or facility, the applicant, in addition to complying with Section 7 of this regulation, shall submit the following data, either in the application or as exhibits attached thereto:

(a) The facts relied upon to show that the proposed new construction is or will be required by public convenience or necessity.

(b) Copies of franchises or permits, if any, from the proper public authority for the proposed new construction or extension, if not previously filed with the commission.

(c) A full description of the proposed location, route, or routes of the new construction or extension, including a description of the manner in which same will be constructed, and also the names of all public utilities, corporations, or persons with whom the proposed new construction or extension is likely to compete.

(d) Three (3) maps to suitable scale (preferably not more than two (2) miles per inch) showing the location or route of the proposed new construction or extension, as well as the location to scale of any like facilities owned by others located anywhere within the map area with adequate identification as to the ownership of such other facilities.

(e) The manner in detail in which it is proposed to finance the new construction or extension.

(f) An estimated cost of operation after the

proposed facilities are completed.

(g) All other information necessary to afford the commission a complete understanding of the situation.

(3) Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

(4) Renewal applications. Insofar as procedure is concerned, applications for a renewal of a certificate of convenience and necessity will be treated as an original application.

Section 10. [9.] Application or Notice for Authority to Adjust Rates. (1) When the utility seeks to adjust any rate, toll, charge, or rental, so as to alter any classification, contract, practice, rule or regulation as to result in any change in any rate, toll, charge, or rental, the applicant, in addition to complying with the provisions of Section 7 of this regulation, shall submit the following data either in the application or attached thereto as exhibits:

(a) Financial exhibit. (See Section 6)

(b) A schedule of the present rates, tolls, charges, or rentals, in effect, and the changes which it is desired to make, shown in comparative form.

(c) A description of applicant's property, including a statement of the net original cost of the property (estimated if not known) and the cost thereof to applicant.

(d) A statement in full of the reason why the adjustment is required.

(e) A statement setting forth estimates of the effect that the new rate or rates will have upon the revenues of the utility, the total amount of money resulting from the increase or decrease, the percentage of increase or decrease, and the effect upon average consumer bills.

(f) A statement certifying that the utility's annual reports, including the report for the most recent calendar year, are on file with the commission in accordance with 807 KAR 5:006, Section 3(1).

(2) In all cases involving a general increase in rates, in addition to the information required in subsection (1) above, complete financial data for the twelve (12) months corresponding to the test period used by the utility in its case shall be submitted at the hearing or prior thereto unless such information is contained in reports on file with the commission. Such data shall include:

(a) Total amount of interest charged to construction.

(b) An analysis of customer's bills in such detail that the revenues from the present and proposed rates can be readily determined.

(c) Details of any apportionment used.

(d) Monthly revenues and operating expenses.

Section 11. [10.] Application for Authority to Issue Securities, Notes, Bonds, Stocks or Other Evidences of Indebtedness. (1) When application is made by the utility for an order authorizing the issuance of securities, notes, bonds, stocks or other evidences of indebtedness payable at periods of more than two (2) years from the date thereof, under the provisions of KRS 278.300, said application, in addition to complying with the requirements of Section 7 of this regulation, shall contain:

(a) A general description of applicant's property and the field of its operation, together with a statement of the original cost of the same and the cost to the applicant, if it is impossible to state the original cost, the facts creating such impossibility shall be stated.

(b) The amount and kinds of stock, if any, which the utility desires to issue, and, if preferred, the nature and extent of the preference; the amount of notes, bonds or other evidences of indebtedness, if any, which the utility desires to issue, with terms, rate of interest and whether and how to be secured.

(c) The use to be made of the proceeds of the issue of such securities, notes, bonds, stocks or other evidence of indebtedness with a statement indicating how much is to be used for the acquisition of property, the construction, completion, extension or improvement of facilities, the improvement of service, the maintenance of service and the discharge or refunding of obligations.

(d) The property in detail which is to be acquired, constructed, improved or extended with its cost, a detailed description of the contemplated construction, completion, extension or improvement of facilities set forth in such a manner that an estimate of cost may be made, a statement of the character of the improvement of service proposed, and of the reasons why the service should be maintained from its capital. Whether any contracts have been made for the acquisition of such property, or for such construction, completion, extension or improvement of facilities, or for the disposition of any of the securities, notes, bonds, stocks or other evidence of indebtedness which it proposes to issue or the proceeds thereof and if any contracts have been made, copies thereof shall be annexed to the petition.

(e) If it is proposed to discharge or refund obligations, a statement of the nature and description of such obligations including their par value, the amount for which they were actually sold, the expenses associated therewith, and the application of the proceeds from such sales. If notes are to be refunded, the petition must show the date, amount, time, rate of interest, and payee of each and the purpose for which their proceeds were expended.

(f) Such other facts as may be pertinent to the application.

(2) The following exhibits must be filed with the application:

(a) Financial exhibit. (See Section 6)

(b) Copies of trust deeds or mortgages, if any, unless they have already been filed with the commission, in which case reference should be made, by style and case number, to the proceeding in which the trust deeds or mortgages have been filed.

(c) Maps and plans of the proposed property

and constructions together with detailed estimates in such form that they can be checked over by the commission's engineering division. Estimates must be arranged according to the uniform system of accounts prescribed by the commission for the various classes of utilities.

Section 12. [11.] Formal Complaints. (1) Contents of complaint. Each complaint shall be headed "Before the Public Service Commission," shall set out the names of the complainant and the name of the defendant, and shall state:

(a) The full name and post office address of the complainant.

(b) The full name and post office address of the defendant.

(c) Fully, clearly, and with reasonable certainty, the act or thing done or omitted to be done, of which complaint is made, with a reference, where practicable, to the law, order, or section, and subsections, of which a violation is claimed, and such other matters, or facts, if any, as may be necessary to acquaint the commission fully with the details of the alleged violation. The complainant shall set forth definitely the exact relief which is desired. (See Section 14(1))

(2) Signature. The complaint shall be signed by the complainant or his attorney, if any, and if signed by such attorney, shall show his post office address. Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the commission.

(3) Number of copies required. At the time the complainant files his original complaint, he must also file copies thereof equal in number to ten (10) more than the number of persons or corporations to be served.

(4) Procedure on filing of complaint:

(a) Upon the filing of such complaint, the commission will immediately examine the same to ascertain whether it establishes a prima facie case and conforms to this regulation. If the commission is of the opinion that the complaint does not establish a prima facie case or does not conform to this regulation, it will notify the complainant or his attorney to that effect, and opportunity may be given to amend the complaint within a specified time. If the complaint is not so amended within such time or such extension thereof as the commission, for good cause shown, may grant, it will be dismissed.

(b) If the commission is of the opinion that such complaint, either as originally filed or as amended, does establish a prima facie case and conforms to this regulation, the commission will serve an order upon such corporations or persons complained of under the hand of its secretary and attested by its seal, accompanied by a copy of said complaint, directed to such corporation or person and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of such order, provided that the commission may, in particular cases, require the answer to be filed within a shorter time.

(5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he shall submit to the commission, within the time

allowed for satisfaction or answer, a statement of the relief which he is willing to give. Upon the acceptance of this offer by the complainant and the approval of the commission, no further proceedings need be taken.

(6) Answer to complaint. If satisfaction be not made as aforesaid, the corporation or person complained of must file an answer to the complaint, with certificate of service on other parties endorsed thereon, within the time specified in the order or such extension thereof as the commission, for good cause shown, may grant. The answer must contain a specific denial of such material allegations of the complaint as controverted by the defendant and also a statement of any new matter constituting a defense. If the answering party has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer and place his denial upon that ground. (See Section 14(2))

Section 13. [12.] Informal Complaints. (1) Informal complaints must be made in writing. Matters thus presented are, if their nature warrants, taken up by correspondence with the utility complained against in an endeavor to bring about satisfaction of the complaint without formal hearing.

(2) No form of informal complaint is prescribed, but in substance it must contain the essential elements of a complaint, including the name and address of complainant, the correct name and post office address of the utility against whom complaint is made, a clear and concise statement of the facts involved, and the relief requested.

(3) In the event of failure to bring about satisfaction of the complaint because of the inability of the parties to agree as to the facts involved, or from other causes, the proceeding is held to be without prejudice to the complainant's right to file and prosecute a formal complaint whereupon the informal proceedings will be discontinued.

Section 14. [13.] Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

Section 15. [14.] Forms. (1) In all practice before the commission the following forms shall be followed insofar as practicable:

- (a) Formal complaint.
- (b) Answer.
- (c) Application.
- (d) Notice of adjustment of rates.
- (2) Forms of formal complaint.

Before the Public Service Commission  
 (Insert name of complainant) )  
 COMPLAINANT )  
 vs. ) No. \_\_\_\_\_  
 ) (To be inserted  
 ) by the secretary  
 (Insert name of each defendant) )  
 DEFENDANT )

## COMPLAINT

The complaint of (here insert full name of each complainant) respectfully shows:

(a) That (here state name, occupation and post office address of each complainant).

(b) That (here insert full name, occupation and post office address of each defendant).

(c) That (here insert fully and clearly the specific act or thing complained of, such facts as are necessary to give a full understanding of the situation, and the law, order, or rule, and the section or sections thereof, of which a violation is claimed).

WHEREFORE, complainant asks (here state specifically the relief desired).

Dated at \_\_\_\_\_, Kentucky, this \_\_\_\_\_  
 ay of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
 (Name of each complainant)

\_\_\_\_\_  
 (Name and address of attorney, if any)

(3) Form of answer to formal complaint.

Before the Public Service Commission  
 (Insert name of complainant) )  
 COMPLAINANT )  
 vs. ) No. \_\_\_\_\_  
 ) (To be inserted  
 ) by the secretary  
 (Insert name of each defendant) )  
 DEFENDANT )

## ANSWER

The above-named defendant, for answer to the complaint in the proceeding, respectfully states:

(a) That (here follow specific denials of such material, allegations as are controverted by the defendant and also a statement of any new matter constituting a defense. Continue lettering each succeeding paragraph).

WHEREFORE, the defendant prays that the complaint be dismissed (or other appropriate prayer).

\_\_\_\_\_  
 (Name of defendant)

\_\_\_\_\_  
 (Name and address of attorney, if any)

(4) Form of application.

Before the Public Service Commission

In the matter of the )  
 application of (here )  
 insert name of each ) No. \_\_\_\_\_  
 applicant) for (here insert ) (To be inserted  
 desired order, authorization, ) by the secretary)  
 permission or certificate, )  
 thus: "Order authorizing )  
 issue of stocks and bonds") )

APPLICATION

The petition of (here insert name of each applicant) respectfully shows:

(a) That applicant is engaged in the business of (here insert nature of business and territorial extent thereof).

(b) That the post office address of each applicant is \_\_\_\_\_.

(c) That (here state fully and clearly the facts required by these rules, and any additional facts which applicant desires to state).

WHEREFORE, applicant asks that the Public Service Commission of the Commonwealth of Kentucky make its order authorizing applicant to (here state specifically the action which the applicant desires the commission to take).

Dated at \_\_\_\_\_, Kentucky, this \_\_\_\_\_ day of \_\_\_\_\_, 19.

\_\_\_\_\_  
 (Name of applicant)

\_\_\_\_\_  
 (Name and address of attorney, if any)

(5) Form of notice to the commission of adjustment of rates.

Before the Public Service Commission

In the matter of adjustment ) No. \_\_\_\_\_  
 of rates of the (state name ) (To be inserted by  
 of corporation). ) the secretary)

The (here insert name of company) informs the commission that it is engaged in the business of (set out character of business) in (set out place of operation) and does hereby propose to adjust its rates, effective the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, in conformity with the attached schedule.

(See Section 9 of this regulation for required information.)

\_\_\_\_\_  
 (Name and address of company)

\_\_\_\_\_  
 (Name and address of attorney)

RICHARD D. HEMAN, JR., Commissioner  
 M. H. WILSON, Secretary

APPROVED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at 10:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 28, 1985, at 10 a.m. EST, in the Public Service Commission hearing room on Schenkel Lane in Frankfort, Kentucky. Those interested in attending this hearing shall contact: Larry D. Stanley, Executive Director, Kentucky Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry D. Stanley

(1) Type and number of entities affected: 535 utilities

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Some additional paperwork required from utility seeking to utilize this regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Some additional paperwork required by Public Service Commission.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: There are no alternatives

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Not applicable as this procedure must apply to all utilities equally, regardless of size.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Housing, Buildings

and Construction

(Proposed Amendment)

815 KAR 7:010. Administration and enforcement.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for construction of all buildings in the state. This regulation establishes the administration and enforcement sections of the Kentucky Building

Code.

Section 1. Definitions used in Title 815, Chapter 7. (1) "Board of Housing" or "Board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "BOCA" means Building Officials and Code Administrators International, Inc.

(3) [(2)] "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.

(4) [(3)] "Commissioner" means the Commissioner of the Department of Housing, Buildings and Construction.

(5) [(4)] "Department" means the Department of Housing, Buildings and Construction.

(6) "Fire Official" means the chief of the fire department or of the fire prevention bureau, or if there is not a jurisdiction fire department of fire prevention bureau, such officer as shall be designated by the appointing authority of the jurisdiction, or his duly appointed representative, to enforce the provisions of KRS 227.300 and 815 KAR 10:020.

(7) [(5)] "Industrialized building system" or "building system" means a structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at a building site in Kentucky. "Industrialized building system" includes: a building of any size or for any use all or any component part of which is of closed construction made from precast concrete panels, or precast wood sections fabricated to individual specifications in an off-site manufacturing facility and assembled in accordance with the manufacturer's instructions.

(8) "KAR" means Kentucky Administrative Regulations.

(9) [(6)] "KBC" means the Kentucky Building Code as established in this chapter.

(10) "KRS" means Kentucky Revised Statutes.

(11) [(7)] "Major structural change" means structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty (50) percent of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alterations are approved, using the BOCA Chart for Construction Cost.

(12) [(8)] "Person" means a person, partnership, corporation or other legal entity.

(13) [(9)] "Single family dwelling" means one

(1) unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which is not connected to any other unit or building.

(14) [(10)] "Trade or brand name house" means any single structure made of precast or prefabricated panels, sections or individual pieces that are sold or prefabricated under a name that identifies both the manufacturer and a particular type of structure he makes, and that are assembled on a permanent foundation by conventional homebuilding and electrical and plumbing installation techniques.

[(11)] "Fire official" means the chief of the fire department or of the fire prevention bureau, or if there is not a jurisdiction fire department or fire prevention bureau, such officer as shall be designated by the appointing authority of the jurisdiction, or his duly appointed representative, to enforce the provisions of KRS 227.300 and 815 KAR 10:020.]

Section 2. Scope. This regulation shall supersede any and all other conflicting administration and enforcement provisions which may be incorporated by reference within the KBC.

(1) The KBC shall control all matters concerning the construction, alteration, addition, remodeling, use and occupancy classifications of all buildings in the state.

(2) Trade or brand name houses shall be constructed in accordance with the applicable provisions of the KBC.

(3) The provisions of the KBC relating to single family dwellings, that are not trade or brand name houses or industrialized building systems, shall be mandatory only after a local government, by ordinance, extends the application of the KBC to those units. However, the state plumbing code and the national electrical code shall be applicable to these units, whether or not the local government passes an ordinance. A local government may not enforce any building code other than the KBC on such units.

(4) Unless otherwise specifically provided within the KBC, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of the KBC.

(5) The provisions of this code relating to the reconstruction, restoration, stabilization, rehabilitation, and moving of buildings or structures shall not be mandatory for existing buildings or structures, identified and classified on the National Register of Historic Places or otherwise classified as historic by the Kentucky Heritage Commission or the department when such buildings or structures are judged by the department to be safe and in the public interest of health, safety and welfare. The department may require submission of architectural and engineering plans and specifications prior to a determination. [The provisions of this code relating to the construction, repair, alteration, enlargement, restoration and moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local government authority as historic buildings, subject to the approval of the board of appeals, when such

buildings are judged by the building official to be safe and in the interest of public health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, relocation, and location within the fire limits. All such approvals must be based on the applicant's complete submission of professional architectural and engineering plans and specifications bearing the professional seal of the designer.]

(6) The KBC shall be construed to secure its expressed intent which is to secure public safety, health and welfare insofar as they are affected by building construction quality, electrical systems, plumbing, energy, boiler safety, handicapped accessibility, life safety from hazards of fire and explosion and other disasters. It is the further expressed intent of this code to avoid duplicative plan review and inspection of new construction and to gather together in one (1) set of regulations all the requirements relating to the construction of buildings in the state to enable builders, owners and building officials to be adequately informed.

Section 3. Applicability. (1) The provisions of the KBC shall cover all matters affecting or relating to buildings, and structures, as set forth in Section 2 of this regulation.

(2) No person shall construct a building or structure, extend, repair, remove or alter in violation of these provisions, except for ordinary repairs as defined in Section 4 of this regulation, and except further that the raising, lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted provided the building or structure is not otherwise altered or its use or occupancy changed.

(3) Any requirement essential for structural, fire or sanitary safety of a building essential for the safety of the occupants thereof, and which is not specifically covered by this code, shall be determined by other regulations of the department or other applicable law.

(4) Any person who violates any provision of the article or any other provision of the Kentucky Building Code shall be subject to the penalties provided in Section 19 of this regulation.

Section 4. Ordinary Repairs. Ordinary repairs to structures may be made without application or notice to the building official; but such repairs shall not include the cutting away of any wall, partition or portion thereof, or the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement or relocation of any standpipe, water supply, sewer or drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health and general safety.

Section 5. Installation of Service Equipment. When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electrical wiring, heating system or other equipment is specifically controlled by

the provisions of this code, it shall be unlawful to use such equipment until a certificate of approval has been issued therefor by the building official or other agency having jurisdiction.

Section 6. Existing Structures. (1) Continuation of existing use: The legal use and occupancy of any structure existing on the date of adoption of this code or for which it has been heretofore approved may be continued without change, except as may be specifically covered in this code, the existing structures or fire prevention codes set forth in 815 KAR 10:020 or as may be deemed necessary by the building official for the general safety and welfare of the occupants and the public.

(2) Change in use: It shall be unlawful to make any change in the use or occupancy of any structure or portion thereof which would subject it to any special provisions of this code without approval of the building official; such approval shall be granted if the building official finds that such structure meets the intent of the provisions of law governing building construction for the proposed new use and occupancy, and that such change does not result in any greater hazard to public safety or welfare. In making his decision, the building official may require a written opinion from a design professional.

(3) Additions, alterations or repairs: Additions, alterations or repairs may be made to any structure without requiring the existing structure to comply with all the requirements of this code, provided such work conforms to that required of a new structure. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings.

(4) Alterations or repairs to an existing structure which are nonstructural and do not adversely affect any structural member of any part of the structure having a required fire resistance rating may be made with the same materials of which the structure is constructed.

Section 7. Departments of Building Inspection. (1) Each local government singularly or by association with other local governments shall employ a building official or inspector and other code enforcement personnel as necessary to enforce this code within its jurisdiction. The department shall be responsible for the enforcement of this code as it pertains to the buildings assigned by law to it.

(2) All building officials shall be appointed by the chief appointing authority for the respective jurisdictions and shall meet the qualifications for the position which may be established by the appointing authority, in addition to the requirements for certification of Kentucky building code inspectors as detailed in 815 KAR 7:070.

(3) Official records shall be kept of all business and activities of the various local building departments or state building departments specified in provisions of the KBC, and all such records shall be open to the public inspection at all appropriate times under the terms and conditions of KRS Chapter 61.

Section 8. Duties and Powers of the Building Official. The local governments shall designate the persons to be charged with the responsibility of enforcing the KBC within its community and it shall neither adopt nor enforce any ordinance regulating buildings which conflicts with the KBC. The local building official shall be responsible for the examination and approval of plans and specifications for the following buildings:

(1) All buildings classified as storage, residential, miscellaneous or utility [temporary] occupancies so long as they do not exceed three (3) stories in height or 20,000 square feet of floor area.

(2) All buildings classified as assembly business or mercantile occupancies having a capacity which does not exceed 100 persons[, including buildings used for assembly type purposes but having a capacity of less than fifty (50)].

(3) All churches having a capacity of 400 or less persons and 6,000 or less square feet of total floor area.

(4) [(3)] All buildings classified as factory or industrial occupancies having a capacity which does not exceed 100 persons.

Section 9. Duties and Powers of the Department. (1) It shall be the responsibility of the department to review plans and specifications, issue permits and to determine compliance with the KBC for the following buildings:

(a) All buildings classified as assembly occupancies having a capacity in excess of 100 persons, except churches having a capacity of 400 or less persons and 6,000 or less square feet of total floor area;

(b) All buildings classified as educational occupancies;

(c) All buildings classified as institutional occupancies;

(d) All buildings classified as business and mercantile occupancies having a capacity in excess of 100 persons;

(e) All buildings classified as industrial and factory occupancies having a capacity in excess of 100 persons;

(f) All frozen food locker plants;

(g) All buildings classified as high hazard occupancies;

(h) All other buildings containing in excess of three (3) stories or 20,000 square feet of floor area;

(i) All industrialized building systems regardless of occupancy classification.

(2) Any local government may petition to the department for additional plan review responsibility. Such petition shall include the evidence of the local governments capability to perform those functions, as required by regulations of the board. Denials of such petitions are appealable to the board.

(3) The appropriate official shall make all the required inspections, or he may accept reports of inspection by authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual.

(4) The building official or his authorized representative should carry proper credentials

of his respective office for the purpose of inspecting buildings and premises and the performance of his duty under this code.

(5) The board shall have the powers as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate amendments to the code and other rules and regulations which are necessary to implement this code and by means of the appeals board procedures to issue interpretations which shall be binding upon the appellee and the building officials. The building official shall implement the provisions of this code to secure the intent thereof.

(6) In the absence of provisions not specifically contained in this code or approved rules and orders, the regulation, specifications and standards listed in Appendix A "Referenced Standards" [B, "Accepted Engineering Practice," and Appendix C, "Accredited Materials Standards"] of the 1984 [1978] Edition of BOCA Basic National Building Code [, Inc.,] filed herein by reference, shall be deemed to represent accepted engineering practice with respect of materials, equipment, system or method construction therein specified, and shall therefore be acceptable.

Section 10. New Materials and Modifications.

(1) It is the purpose of the KBC to set forth performance objections so as to facilitate new technologies, techniques and materials; therefore, alternate materials and equipment may be used provided such an alternative has been tested and listed by nationally recognized testing and research laboratories approved by the board.

(2) The building official may accept supporting data to assist him in his determinations: duly authenticated research reports from BOCA[, Inc.,] or from other approved authenticated sources for all materials or assemblies proposed for use which are not specifically provided for in the KBC.

(3) Used materials, equipment and devices may be used provided they have been retested and placed in good and proper working condition and approved by the building official.

(4) When there are practical difficulties involved in carrying out structural or mechanical provisions of this code or of an approved rule, the building official having plan review responsibility may vary or modify such provision upon application of the owner or his representative only if the spirit and intent of the law shall be observed and equivalent safeguards provided. The application for modification and the final decision of the building official shall be in writing. When a modification is granted by a local building official, a copy of the application and the decision shall be forwarded to the department and the local fire official.

(5) The board may withdraw authority for plan review from a local building department where it finds, upon petition of the department, that the local inspection agency is not adequately performing any portion of its program and, thereafter, allow the department to preempt that portion of a local program.

Section 11. Inspections. (1) Before issuing a permit the appropriate building officials may examine or cause to be examined all buildings,

structures and sites for which an application has been filed for a permit required by this code. No construction shall begin on buildings covered by this regulation until a local building official has issued a permit for such construction and an official representing the department has issued a letter releasing the plans for construction [permit] (if it has plan review responsibility).

(2) After issuing a building permit for a building over which he has plan review responsibility the building official shall conduct inspections from time to time during and upon completion of work and he shall maintain a record of all such examinations and inspections and of all violations of the KBC.

(3) The building official may accept reports of approved inspection services which satisfy the requirements of the appropriate governmental entity.

(4) Inspections for KBC compliance of trade or brand name homes shall be the responsibility of the local building official.

(5) In-plant inspections in production and manufacturing facilities for industrialized building systems as well as on-site inspection shall be conducted by the department or its authorized agent pursuant to 815 KAR 7:020. The local building official shall be responsible to inspect such system only for location under applicable local ordinances.

(6) Upon completion of the building, the owner or agent of the facility shall request a final inspection; the building official shall set a time for said inspection and notify the owner or agent. If compliance with the approved plans and permit has been achieved, a certificate of occupancy shall be issued, as described in Section 17 of this regulation. If compliance has not been achieved, any violations shall be noted and immediately communicated to the owner or agent and the fire official.

(7) The building official shall cooperate with the fire official by allowing the fire official to inspect all buildings during construction. Any recommendations made by the fire official relating to fire safety in construction of a building shall be considered by the building official and if a certificate of occupancy is issued contrary to said written recommendations the building official shall give written notification of his decision to the fire official and the department at once.

Section 12. Right of Entry. Applicants for building permits shall be deemed to consent to inspection during construction and upon completion of construction for the purpose of determining that such building is constructed in compliance with the Kentucky Building Code, and the inspector may enter upon the premises during any reasonable hour.

#### Section 13. Application for Permit Required.

(1) It shall be unlawful to construct, enlarge, or alter a structure; or change the type of occupancy of a building requiring greater strength, exiting or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is required by KBC, without first filing an application with the appropriate building officials in writing and obtaining the required permit therefor; except

that ordinary repairs, as defined in Section 4 of this regulation, which do not involve any violation of KBC shall be exempt from this provision.

(2) The application for a permit shall be submitted in writing and in such form as the department may prescribe and shall be accompanied by the required fee.

(3) The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the building official.

(4) Application for permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(5) The application for the permit shall be accompanied by [not less than two (2) copies of] specifications and [of] plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. The building official shall cooperate with the fire official by allowing the fire official to review all plans. Any recommendations made by the fire official relating to fire safety in construction of a building shall be considered by the building official and he shall report his decision to the fire official at once. When quality of materials is essential for conformity to the KBC, specific information shall be given to establish such quality; and the KBC shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of a minor nature.

(6) Site plan: There shall also be a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey.

(7) Engineering details: The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the responsible design professional. Plans for buildings more than two (2) stories in height shall indicate how required structural and fire resistance rating integrity will be maintained, and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(8) An application for permit for any proposed work should be deemed to have been abandoned six



(6) months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the building official may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(9) Subject to the limitations of Section 13 of this regulation, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed a part of the original application and shall be filed therewith.

(10) The building official may revoke a permit or approval issued under the KBC in case of any false statements or misrepresentation in the application or on the plans.

Section 14. Permits Required. (1) The building official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

(2) Any permit issued shall become invalid if the authorized work is not commenced within one (1) year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

(3) The KBC shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been theretofore issued or otherwise lawfully authorized by approved plans, so long as the substantial construction on the project has commenced within one (1) year from the date the permit was issued.

(4) The building official shall attach his signature to every permit, or he may authorize a subordinate to affix such signature thereto.

(5) The building official shall record and communicate to the owner or agent, the terms and conditions related to his approval to commence construction.

(6) The building official may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(7) Approved plans: The building official shall stamp or endorse in writing the [both sets of] corrected plans approved, and that [and one (1) set of such approved plans shall be retained by him and the other] set shall be available at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

(8) A true copy of the building permit shall be available on the site of operation open to public inspection during the entire time of prosecution of the work and until the completion of the same.

Section 15. Conditions of Permit. (1) A permit shall not be issued until the fees prescribed by the department or the local government have been paid. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the KBC, except as specifically stipulated by modification or legally granted variation as described in the permit.

(2) All work shall conform to the appropriate application and plans for which the permit has been issued and any approved amendments thereto and shall be located strictly in accordance with the approved plot plan and any local ordinances governing the location of the building.

(3) A lot shall not be changed, increased or diminished in area from that shown on the official plot site plan, unless a revised plan showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved, except that such revised plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

Section 16. Fees. (1) A permit to begin work for new construction, alteration, removal, or other building operations shall not be issued until the fees prescribed by law shall have been paid to the department or local building department, nor shall an amendment to a permit necessitating an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid.

(2) The payment of the fee for construction, alteration, and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees of inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of building inspection.

(3) The fee for building permits and other functions performed pursuant to KRS Chapter 198B may be designed to fully cover the cost of the service performed; and the department and each local government is authorized to establish by approved rules or ordinances a schedule of unit rates for buildings and structures of all use groups and type of construction as classified and defined in the KBC.

Section 17. Certificate of Use and Occupancy. (1) No building on which site preparation and assembly were begun, after the Kentucky Building Code becomes effective as to that building, shall be occupied until the appropriate building official issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Kentucky

Building Code, or assembled or installed in conformance with applicable instructions; except that:

(a) A building for which a permit was legally granted prior to the effective date of the KBC may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(b) A building for which plans were prepared at least three (3) months prior to the effective date of the KBC and upon which construction was begun prior to the effective date of the KBC in a locality not then requiring a building permit may be completed and occupied without a building permit.

(2) A building or structure hereafter enlarged, extended or altered to change from one (1) use group to another or to a different use within the same use group, in whole or part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued by the building official, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the building official.

(3) After a change of use has been made in a building or structure, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless the building complies with all applicable provisions of this code. A change from one (1) prohibited use, for which a permit has been granted to another prohibited use shall be deemed a violation of this code.

(4) Upon the request of the holder of a permit, the building official may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(5) When a building or structure is entitled thereto, the building official shall issue a certificate of use and occupancy within ten (10) days after written application. The certificate shall certify compliance with the provisions of this code and the purpose for which the building may be used in its several parts. The certificate of use and occupancy may [shall] specify the following information from the 1984 [1978] edition of the BOCA Basic National Building Code: the use group, in accordance with the provisions of Article 2; the fire grading as defined in Article 2 and Table 902; the maximum live load on all floors as prescribed in Article 7; the occupancy load in the building and all parts thereof as defined in Article 2 and Article 6; and any special stipulations and conditions of the building permit.

Section 18. Posting Structures. (1) Every building and structure and part thereof designed for business, factory and industrial, high

hazard, mercantile, or storage use (use groups B, F, H, M, and S) as defined by the KBC shall be posted on all floors by the owner with a suitably designed placard in a form designated by the department, which shall be securely fastened to the structure in a readily visible place, stating: the use group, [the fire grading, the live load] and the occupancy load.

(2) Every room constituting a place of assembly shall have the occupancy load of the room posted in a conspicuous place, near the main exit from the room. Approved signs shall be maintained in a legible manner by the owner or his authorized agent. Signs shall be durable and shall indicate the number of occupants permitted for each room use.

(3) All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed, or defaced and, if lost, removed or defaced, shall be immediately replaced.

Section 19. Violations and Remedies. (1) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, use or occupy any building or structure or equipment regulated by the KBC, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code.

(2) The building official shall serve a notice of violation or order on the person responsible for erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of this code or in violation of a detail statement or a plan approval thereunder, or in violation of a permit or certificate issued under the provisions of this code; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(3) If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or of the order or direction made pursuant thereto.

(4) [Violation of] Penalties: Any person who shall violate a provision of the KBC or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or proper direction of the building official, or of a permit or certificate issued under the provisions of the KBC, shall be subject to such penalties as may be provided by KRS 198B.990 and other applicable law.

(5) Injunctive relief: The department or any local agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not

conform to the requirements of the KBC.

(6) No person shall hinder an inspector enforcing any of the provisions of this code in the performance of his lawful duties under this chapter.

Section 20. Notice to Owner. (1) Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.

(2) Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the restraints provided in Section 19 of this regulation.

Section 21. Authority for Existing Buildings. (1) Upon the issuance of a final approval of a facility and the issuance of a lawful certificate of occupancy with respect to a particular facility, the building official's authority and responsibility as to that facility is ended so far as the KBC is concerned, unless the facility later becomes subjected to the KBC by virtue of Section 6 of this regulation.

(2) Other local or state law must be consulted to determine the existence of other powers given to the building official, such as those related to demolition or authority over unsafe structures, which are not specifically awarded him or her in the KBC.

(3) The State Fire Marshal's Office and the local fire official designated by the local government shall continue to be the persons responsible for enforcement of the standards of safety for existing buildings and shall also inspect for fire safety maintenance after a building has been given a final certificate by the building official, under KRS Chapter 227, and 815 KAR 10:020 [15].

Section 22. Local Board of Appeals. (1) The mayor, chairman of the board of trustees, or county judge executive of a local government which is enforcing the Kentucky Building Code, may, upon approval of the local legislative body, appoint a local appeals board, consisting of at least five (5) [three (3)] technically qualified persons with professional experience related to the building industry, three (3) of which must not be employees of the local government, to hear appeals of the decisions of the local building official.

(2) Local governments which are enforcing the Kentucky Building Code may cooperate with each other and provide a local appeals board and shall adhere to the provision of KRS Chapter 65 when entering into such cooperative agreements.

(3) No local building official or employee of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has financial interest.

(4) Any party to a decision by the local

building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt.

(5) All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by certified [registered] mail no later than ten (10) days prior to the date of the hearing.

(6) The local appeals board shall render a decision within five (5) working days after the hearing. The board may uphold, amend or reverse the decision of a local building official, and there shall be no appeal from the decision of the local appeals board other than by appeal to the board.

Section 23. Appeals Procedures. (1) Where a local appeals board exists, a party including the local fire official must first appeal to the local board when aggrieved by a decision of the local building official.

(2) A party, including the local fire official, aggrieved by a decision of a local building official where no local appeals board exists may appeal directly to the board. The board shall further hear appeals directly from a party aggrieved by the decision of an agent of the department or the State Fire Marshal.

(3) Application for appeal may be made when it is claimed in writing that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction can be used, or that the building official has refused to grant a modification to the provisions of this code covering the manner of construction of materials to be used in the erection, alteration or repair of a building or structure.

(4) The board may appoint five (5) or more of its members, excluding the chairman of the board, to consider the recommendations of the commissioner or to conduct hearings, and those appointed shall act in all matters concerning the appeal for the entire board.

(5) The board may adopt such rules, regulations and bylaws as are necessary to conduct said appeals; and no member of the board or committee may vote on any matter which will result in his direct or indirect financial gain.

(6) Appeals to the board shall be in writing and shall be addressed to the Commissioner of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601; Attention: Appeals Board. Such appeals shall include citations of those provisions of the Kentucky Building Code which are at issue, an explanation as stated in subsection (3) of why the decision of the state building official or local building official relative to those provisions is being contested and a copy of the decision rendered by the local appeals board, if any.

(7) The commissioner shall immediately notify the board when an appeal is received. The commissioner or a designated employee of the department shall then investigate the evidence pertaining to such an appeal, based upon the results of such investigation, make recommendations to the board or committee on the disposition of the case in question.

(8) No employee of the department shall investigate or make recommendation on an appeal to his own decision, but shall defer in such cases to employees who are not party to the decision which lead to the appeals.

(9) In conducting such investigation, the commissioner or the designated representatives, acting for the department shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause disposition to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issue by consent of the parties.

(10) The commissioner shall cause such investigation to be completed and forwarded with written recommendations to the board within thirty (30) days after receiving such an appeal.

Section 24. Action of the Board. (1) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its regularly scheduled meeting but no later than thirty (30) days after receipt of such recommendations.

(2) If the board has authorized an appeals committee to hear an appeal, the committee shall act for the board in all matters related to the appeal.

(3) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner. The board may further exercise the same powers of investigation as granted to the commissioner in Section 23 of this regulation. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(4) The board may uphold, amend or reverse the decision of a local appeals board, a local building official or the state building official; and the decision of the board or the appeals committee shall be final.

(5) The chairman of the board shall notify the appropriate building official and he or she shall take immediate action in accordance with the decision of the board.

(6) There shall be no appeal from the board's decision except to the circuit court within whose jurisdiction the property in question is located. Application for review shall be made to the proper court within thirty (30) days following that decision.

Section 25. Construction Control and Responsibilities. (1) The provisions of this section shall define the responsibility of the building official in relation to design professionals and the circumstances under which the department or the local building official shall be authorized to accept design professionals affirmation in their plans and specifications as to compliance with various provisions of this code.

(2) All new, alteration, repair, expansion, addition or modification work involving the

practice of professional architecture and engineering as defined by KRS Chapters 322 and 323 shall be prepared by registered professional architects or engineers as certified by the state; and all plans, computations and specifications required for a building permit application for such work must be prepared by or under the direct supervision of the registered architect or engineer and bear his seal and signature in accordance with those statutes.

Section 26. Validity. (1) In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may or shall be determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

(2) Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

(3) The invalidity of any provision in any section of the KBC as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

Section 27. Effective Dates for KBC Application. (1) Any building required by Section 9(1) of this regulation to be submitted to the Department of Housing, Buildings and Construction and which has not been submitted and accepted for construction prior to February 15, 1980, must be constructed in compliance with the applicable provisions of the KBC.

(2) Any building required by Section 8 of this regulation to be submitted to a local government for plan review and which has not been lawfully approved for construction prior to the following timetables shall be constructed in compliance with the applicable provisions of the KBC:

(a) In all local governments in a county containing a first or second class city or urban county government, no later than February 15, 1980.

(b) In all local governments in a county where the largest city is of the third or fourth class, no later than August 15, 1981.

(c) In all local governments in a county containing no city larger than fifth or sixth class, no later than August 15, 1982.

(3) Any local government may adopt the KBC voluntarily before the mandatory date stated in subsection (2) of this section.

Section 28. Whenever the department has entered into a contractual obligation requiring enforcement of applicable federally approved codes, the department shall approve plans and make inspections; using those federal codes as an alternative to other applicable provisions of the KBC, so long as equivalent safety is maintained. Any facility of an occupancy type subject to review by the federal codes may use this section.

Section 29. Day Care Centers. Family child day care homes, group day care homes, day nurseries and child day care centers which comply with the provisions of the Life Safety Code, N.F.P.A.

Phamplet #101, shall be deemed to have satisfied all the life safety requirements of the Kentucky Building Code.

CHARLES A. COTTON, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: January 17, 1985

FILED WITH LRC: February 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 22, 1985 at 2 p.m. in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by March 18, 1985, the hearing may be cancelled.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

- (1) Type and number of entities affected:
  - (a) Direct and indirect costs or savings to those affected:
    - 1. First year: N/A
    - 2. Continuing costs or savings: N/A
    - 3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
  - (b) Reporting and paperwork requirements: N/A
  - (2) Effects on the promulgating administrative body:
    - (a) Direct and indirect costs or savings:
      - 1. First year: N/A
      - 2. Continuing costs or savings: N/A
      - 3. Additional factors increasing or decreasing costs: N/A
    - (b) Reporting and paperwork requirements: N/A
    - (3) Assessment of anticipated effect on state and local revenues: N/A
    - (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
    - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
    - (a) Necessity of proposed regulation if in conflict: N/A
    - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
    - (6) Any additional information or comments: None

Tiering:

Was tiering applied? N/A

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction (Proposed Amendment)

#### 815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation

establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems.

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1984 Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA Basic Building Code/1984," Ninth Edition [1981, "Eighth Edition"], published by and copies available from Building Officials and Code Administrators International, Inc., 4051 W. Floosmoor Road, Country Club Hills, Illinois 60477 [17926 South Halsted Street, Homewood, Illinois 60430]. That code, including all standards listed in Appendices A through Q [F] are hereby adopted by reference with the following additions, exceptions and deletions:

- (1) Delete Article 1 in its entirety.
- (2) Change subsection 201.0 to include the following additional definitions:
  - (a) "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."
  - (b) "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."
  - (c) "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as it appeared at a specific period of time."
  - (d) "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."
  - (e) "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work."
  - (f) "Stabilization: The process of applying measures designed to re-establish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."
- (3) Change subsection 201.0 definitions to read as follows:
  - (a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of

general household habitation." (See "Story Above Grade.")

(b) "Story: That part of the building comprised between a floor and the floor or roof next above which is not a basement or an attic."

(4) Change subsection 309[8].5 to read as follows: "309[8].5 Use group R-4 Structures: This use group shall include all detached one (1) or two (2) family dwellings not more than than three (3) stories in height, and their accessory structures as indicated in the Appendix A Standard, One- and Two-Family Dwelling Code. All such structures shall be designed and built in accordance with the requirements of this code for use group R-3 structures or shall be designed and built in accordance with all the requirements of the one (1) and two (2) family dwelling code as listed in Appendix A, except that the requirements of the state plumbing code (Article 22) shall supersede those conflicting requirements of the one (1) and two (2) family dwelling code. This choice shall be made by the builder at the time of plans submission. Nevertheless, any builder may use exception #3 of Section 809.4 to determine minimum size of egress windows."

(5) Change subsection 505[4].1 to read as follows: "505[4].1 Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Sections 106 and 505.2 [6 of 815 KAR 7:010] provided an unlawful change of use is not involved."

(6) Delete Sections 512.1 through 512.4.1 [515.1 through 515.11] and substitute the following: "512.1 [515.1] Requirements for accessibility of the handicapped: Please see 815 KAR 7:060 for construction requirements providing accessibility to the handicapped, Article 25 of this Code. [in public buildings and public accommodations.]"

(7) Delete Section 513.1 in its entirety. [Change subsection 516.1 to read as follows: "516.1 Approval: The provisions of this code relating to the reconstruction, restoration, stabilization, rehabilitation, and moving of buildings or structures shall not be mandatory for existing buildings or structures, identified and classified on the National Register of Historic Places or otherwise classified as historic by the Kentucky Heritage Commission or the department when such buildings or structures are judged by the department to be safe and in the public interest of health, safety and welfare. The department may require submission of architectural and engineering plans and specifications prior to a determination."]

(8) Change [sub]Section 603.0 by creating a new subsection which shall read as follows: "603.3 [603.2 to read as follows: "603.2] Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire and health officials to insure maintenance of good housekeeping conditions."

(9) Change Section 608.1 [613.1] to read as follows: "Private garages located beneath rooms in buildings of Use Groups R-1, R-2, R-3 or I-1 shall have walls, partitions, floors and ceilings separating the garage space from the adjacent interior spaces constructed of not less than one (1) hour fire-resistance rating. Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by means of one-half (1/2) inch gypsum board or equivalent applied to the garage

side. The sills of all door openings between the garage and adjacent interior spaces shall be raised not less than four (4) inches (102 mm) above the garage floor. The door opening protectives shall be one and three-fourths (1 3/4) inch solid core wood doors or approved equivalent. [Private garages located beneath a one- and two-family dwelling shall have walls, partitions, floors and ceilings separating the garage space from the dwelling constructed of not less than one (1) hour fire-resistance rating. Private garages attached to a one- and two-family dwelling shall be completely separated from the dwelling and its attic area by means of one-half (1/2) inch gypsum board or equivalent applied to the garage side.] In lieu of the required one and three quarter (1 3/4) or twenty (20) minute [inch solid core] door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic [smoke] detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 702 [705] and Section 804 in their entirety.

(11) Change Section 900.0 by creating a new subsection which shall read as follows: "900.2 Certificate of Compliance: the provisions of this article may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(12) Delete subsections 1404.4.2, 1404.4.3, 1404.4.4 in their entirety.

(13) Change subsection 1600.2 to read as follows: "1600.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two (2) new subsections to Section 1600.0 which shall read as follows:

(a) "1600.3 Unfired Pressure Vessels. All unfired pressure vessels shall meet the standards set forth in Section VIII of the 1983 [1977] Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "1600.4 Mechanical Code: All mechanical equipment and systems not covered by 1600.2 or 1600.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix A [B], shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1984 [1981] including all applicable standards listed within Appendices A through D [B through E]."

(15) Delete Article Nineteen (19) in its entirety.

(16) Amend Article 20 by changing, creating or deleting certain portions thereof, as follows:

(a) Create a new subsection 2000.5 which shall read as follows: "2000.5 Electrical Inspections: Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:010."

(b) Delete Subsections 2001.3, 2004.3, and 2004.4.

(c) In Subsections 2002.1, 2002.2, 2002.3 and 2003.1 change the words "Building Official" to "Certified Electrical Inspector."

[(16) Delete subsections 2000.1 through 2005.3 and substitute the following:]

[(a) "2000.1 Installations and Repairs. All electrical wiring and equipment shall be installed in conformity with the National Electrical Code incorporated by reference in the Kentucky Building Code."]

[(b) "2000.2 Electrical Inspections. Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:010."]

[(c) "2000.3 Certificate of Approval:"]

[1. After the Kentucky Building Code becomes effective pursuant to KRS 198B.110 and after a certified electrical inspector has been employed, contracted for or with, or otherwise provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government.]

[2. Nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.]

[(d) "Section 2000.4 Temporary use and Permission: The building official may in his discretion give temporary permission for a reasonable time to supply and use current in part of an electrical installation before such installation has been fully completed and the final certificate of approval has been issued; provided, that the part covered by the temporary certificate complies with all the requirements specified for lighting, heat or power in the National Electrical Code."]

(17) Delete subsections 2200.1 through 2206.3.1 in their entirety and substitute the following: "2200.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of Chapter 318 of the Kentucky Revised Statutes and the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

(18) Change subsection 809.4 to read as follows:

"809.4 Emergency escape: Every sleeping room below the fourth story in buildings of Use Group R and I-1 shall have at least one (1) operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of separate tools. Where windows are provided as a means of egress or rescue, they shall have a sill height not more than forty-four (44) inches (1118 mm) above the floor. All egress or rescue windows from sleeping rooms must have a minimum net clear opening of five and seven-tenths (5.7) square feet (0.532). The minimum net clear opening height dimension shall be twenty-four (24) inches (610 mm). The minimum net clear opening width dimension shall be twenty (20) inches (508 mm).

Bars, grilles or screens placed over emergency escape windows shall be releasable or removable from the inside without the use of a key, tool

or excessive force."

#### EXCEPTIONS

1. Grade floor windows may have a minimum net clear opening of five (5) square feet (0.47 m2).

2. In buildings of Use Group R-3, where the sleeping room is provided with a door to a corridor having access to two (2) remote exits in opposite directions, then an outside window or an exterior door for emergency escape from each such sleeping room is not required.

3. Egress windows located on the first and second stories in multiple family dwellings (R-2 and R-3 use groups) and one (1) and two (2) family dwellings, may have a minimum net clear opening height dimension of twenty-two (22) inches and a minimum width dimension of twenty (20) inches; and the net clear opening area may be reduced to no less than four (4) square feet. The minimum total glazed area must be five (5) square feet in the case of a ground floor window and not less than five and seven-tenths (5.7) square feet in the case of a second story window. (This exception applies only if the sash frames can be readily broken or removed.)

Section 3. Elevator, Dumbwaiter and Conveyor Equipment. Installation and Maintenance. The following subsections of Article 21 of the BOCA Basic Building Code are deleted or changed to read as follows:

(1) Change Subsection 2103.4 of Article 21 to read as follows: "2103.4 Posting certificates of compliance: The owner or lessee shall post the last issued certificate of compliance in a conspicuous place on the elevator, available to the building official."

(2) Change Subsection 2102.4.1 of Article 21 to read as follows: "2102.4.1 Periodic Inspection Intervals: Periodic inspections shall hereafter be made at intervals of not more than twelve (12) months for all passenger elevators, manlifts and escalators."

(3) Change Subsection 2110.1 of Article 21 to read as follows: "2110.1 General: The construction of machine rooms and related construction for passenger and freight elevators and dumbwaiters shall be protected from the weather, and shall be enclosed with fire resistive enclosures. Enclosures and access doors thereto shall have a fire endurance at least equal to that required for the hoistway enclosure in Table 401."

[(1) 2100.1 Scope: Except as may be otherwise provided by statute, the provisions of this article shall control the design, construction, installation, maintenance and operation of all elevators, escalators, moving stairways, moving walks, hereafter operated, installed, relocated or altered in all buildings and structures. The design, construction, installation, maintenance and operation of all miscellaneous hoisting and elevating equipment shall be subject to such special requirements as are deemed necessary by the building official to secure their safe operation. The provisions of this article shall not apply to portable elevating devices used to handle materials only, and located and operated entirely within one (1) story. All such equipment shall be constructed, operated and maintained in compliance with accepted engineering practice. The construction, alteration, maintenance, operation, inspection and tests of manlifts shall be in conformity to



the Safety Standard for Manlifts listed in ANSI A17.1.]

[(2) 2101.3 Identification of equipment: All elevators which are subject to periodic inspections shall be identified by a serial number stamped on the crosshead of the elevator car and on the front of the car door sill; and on devices other than elevators, on truss or frame, in figures not less than three-eighths (3/8) inch high. After such devices have been so designated, their numbers shall not be changed except by permission of the building official, and all correspondence in regard to such device shall refer to said number.]

[(3) 2102.3.2 Deleted.]

[(4) 2102.4.1 Periodic inspection intervals: Annual inspection. Every passenger elevator and escalator shall be inspected once every twelve (12) months.]

[(5) 2107.4.2 Maintenance test intervals: Full load safety tests shall be made at intervals not exceeding the following:]

[(a) Power elevator car and counterweight safeties, governors and oil buffers, every five (5) years; and]

[(b) Hydraulic elevator shall have pressure relief test at no less than every twelve (12) months.]

[(6) 2102.5.2 Deleted.]

[(7) 2102.5.3 Manlifts: All equipment and machinery of manlifts shall be inspected and tested to insure reasonable safety of operation and shall include tests of the brake, terminal stopping device, cables and emergency stopping device. Acceptance tests shall also include a load capacity test as provided in the accepted standard listed in ANSI A17.1.]

[(8) 2102.5.4 Deleted.]

[(9) 2107.2.1 Buildings with elevator service: In all buildings and structures serviced by an elevator, all elevators shall be provided with a minimum clear distance between walls, or between wall and door excluding return panels, not less than sixty-eight (68) inches by fifty-four (54) inches (1727 mm by 1372 mm), and a minimum distance from wall to return panel not less than fifty-one (51) inches (1295 mm). The minimum clear width of the door shall be thirty-two (32) inches (813 mm).]

[(10) 2107.2.2 Elevators for fire department use: In all structures where elevator service is required for fire department use (see Section 629.8), all elevators shall be provided with a minimum distance between walls, or between wall and door excluding return panels, not less than eighty (80) inches by fifty-four (54) inches (2032 mm by 1372 mm) and a minimum distance from wall to return panel not less than fifty-one (51) inches (1295 mm), with a forty-two (42) inch (1067 mm) side slide door to allow for turning a wheelchair or accommodating an ambulance stretcher in its horizontal position.]

[(11) 2107.4 Use by handicapped persons: If interior access in multi-story buildings is provided by elevator(s), all passenger elevators shall meet the following requirements of Sections 2107.4.1 through 2107.4.11.]

[(a) 2107.4.4 Car call: The minimum acceptable time for doors to remain open shall not be less than five (5) seconds.]

[(b) 2107.4.6 Car controls: Elevator control panels shall have the following features:]

[1. Buttons. All control buttons shall be at least three-fourths (3/4) inch (nineteen (19)

mm) in their smallest dimensions. They may be raised, flush, or recessed.]

[2. Tactile and visual control indicators. All control buttons shall be designated by raised or indented standard alphabet characters for letters, arabic characters for numerals, or standard symbols, and as required in ANSI A17.1-1978 and A17.1a-1979. Raised and indented characters and the main entry floor shall be designated by a raised or indented star at the left of the floor designation. All raised or indented designations for control buttons shall be placed immediately to the left of the button to which they apply. Applied plates, permanently attached, are an acceptable means to provide raised or indented control designations. Floor buttons shall be provided with visual indicators to show when each call is registered. The visual indicators shall be extinguished when each call is answered.]

[3. Height. All floor buttons shall be no higher than fifty-four (54) inches (1370 mm) above the floor. Emergency controls, including the emergency alarm and emergency stop, shall be grouped at the bottom of the panel and shall have their centerlines no less than thirty-five (35) inches (890 mm) above the floor.]

[4. Location. Controls shall be located on a front wall if cars have center opening doors, and at the side wall or at the front wall next to the door if cars have side opening doors.]

[(c) 2107.4.7 Hall buttons: The centerline of the hall call buttons shall be a nominal forty-two (42) inches above the floor. Director buttons, exclusive of border, shall be a minimum of three-fourths (3/4) inch (nineteen (19) mm) in size and raised, flush or recessed. Visual indication shall be provided to show each call registered, and extinguished when the call is answered. Depth of flush or recessed buttons when operated shall not exceed 3.8 inch (ten (10) mm). Button shall not be obstructed by chairs, ashtrays, or decorative ornaments, etc.]

[(d) 2107.4.10 Car position indicators: In elevator cars, a visual car position indicator shall be provided above the car control panel or over the door to show the position of the elevator in the hoistway. As the car passes or stops at a floor served by the elevators, the corresponding numeral shall illuminate. Numerals shall be a minimum of one-half (1/2) inch (thirteen (13) mm) high.]

[(e) 2107.4.11 Emergency communications: Emergency two (2) way communication systems between the elevator and a point outside the hoistway, shall comply with ANSI A17.1-1980. The highest operable part of a two (2) way communication system shall be a maximum of fifty-four (54) inches (1370 mm) from the floor of the car. It shall be identified by raised or recessed symbol and lettering complying with Section 30, and located adjacent to the device. If the system uses a handset, then the length of the cord from the panel to the handset, shall be at least twenty-nine (29) inches (735 mm).]

[(12) 2108.4 Vents shall be located:]

[(a) In the side of the hoistway enclosure directly below the floor or floors at the top of the hoistway, and shall open either directly to the outer air or through noncombustible ducts to the outer air; or]

[(b) In the wall or roof of the penthouse or overhead machinery space above the roof, provided that openings have a total of not less



than the minimum specified in Section 2108.5 in lieu of the required vents.]

[(13) 2114.1 Restricted use: Special purpose personnel elevators shall be restricted to employees only. They shall comply with the applicable requirements of this Article and shall be installed only when permitted by the building official in feed, flour and cereal mills, grain elevators and in similar buildings of other use groups.]

[(14) 2114.2 Hoistways and hoistway enclosures: Where the hoistway is adjacent to areas permitting passage of people (e.g., passageways, stairwells, elevator landings), it shall be enclosed to a height of not less than seven (7) feet above the floor or stair treads. The enclosure shall be of sufficient strength to prevent contact between the enclosure material and the car or counterweight when the enclosure is subjected to a force of 250 pounds applied at right angles at any point over an area of four (4) inches by four (4) inches. Openwork enclosures may be used and shall reject a ball one (1) inch in diameter.]

[(15) 2114.2.1 Enclosure required: Except at the entrance, cars shall be fully enclosed with metal at sides and top. The enclosure at the sides shall be solid or of openwork which will reject a ball of one (1) inch in diameter. The minimum clear height inside the car shall be seventy-eight (78) inches.]

[(16) 2114.3 Limitation of load, speed and platform area: The rated load shall not exceed 650 pounds. The inside net platform area shall not exceed nine (9) square feet. The minimum rated load shall not be less than that based on seventy (70) pounds per square foot of inside net platform area or 250 pounds, whichever is greater. The rated speed shall not exceed 100 feet per minute.]

[(17) 2114.4 Emergency signal and/or communication: Each elevator shall be equipped with an alarm button or switch in the car operating station and an alarm device mounted in a location which shall be readily available to a person who is normally situated in the vicinity when the elevator is in use, or a means of voice communication to a receiving station always attended when the installation is in use. If the alarm device or means of voice communication is normally activated by utility power supply, it shall be backed up by a manual or battery operated device.]

[(18) 2114.5 through 2117.5 Deleted.]

Section 4. Elevators. Appendix A [and B,] of the BOCA Basic Building Code under "Elevators, Escalators and Moving Walks," shall be changed to read as follows:

[(1) Change the standard citation for "Practice for the Inspection of" by changing to read "ANSI A17.2-1982."]

[(2) Change all citations relating to the "Safety Code for" and substitute "ANSI 17.1-1981 and Supplement to Safety Code for Elevators and Escalators ANSI/ASME A17.1b-1983."]

Section 5. A new subsection of Article 3 of the Kentucky Building Code is hereby added to read as follows: "310.4 [309.5] Tobacco auction warehouses: Warehouses, for the sale of tobacco only, of Type 1, Type 2, or Type 3 construction, may be constructed without a sprinkler system when all the following requirements have been

met:

(1) The initial submission of plans to the Department of Housing, Buildings and Construction shall include a signed certificate by the owner that the warehouse will be used solely for the sale of tobacco on a seasonal basis or for the storage of non-combustibles.

(2) A manual fire alarm and smoke detection system with notification to the local fire service shall be provided with installation in accordance with Section 1707.0 of this code.

(3) An eighteen (18) foot paved and posted fire lane surrounding the entire perimeter of the building shall be provided and be accessible from a public street.

(4) A fifty (50) foot fire separation shall be maintained between the warehouse and the lot line and the warehouse and the nearest building."

Section 6. (1) Amend Article 5 as follows:

(a) In subsection 505.1, change the number, "103.0," to read "106.0."

(b) In subsection 511.1, change the number, "124.0," to read "123.0."

(2) Delete the reference to the BOCA Fire Prevention Code listed in Appendix A and install in its place the following: "The Kentucky Fire Safety Standards (815 KAR 10:020 - Fire Safety Standards) shall be used as the fire prevention code."

(3) In subsection 612.4, change the number, "107.4" to read "110.0."

(4) Change Table 816 to read as follows:

TABLE 816 TREAD AND RISER SIZE <sup>a, c</sup>				
Use Group	Max. riser	Min. riser	Max. tread	Min. tread
R-3 and within dwelling units				
in Use Group R-2	8 1/4 in.	--	--	9 in.
All others <sup>b</sup>	7 in.	4 in.	--	11 in.

Note a. There shall be no variation exceeding 3/16" in the depth of adjacent treads or in the height of adjacent risers, and the tolerance between the largest and smallest riser shall not exceed 3/8" in any flight.

Note b. In balconies and galleries, risers and treads shall be as shown in above table, but one tread in each seat platform width may have a greater width to accommodate access to seats. Seating platforms shall be of a uniform width.

Note c. 1 inch = 25.4 mm.

(5) Amend Figure 916 of Article 9 by adding the following list of 120 Kentucky counties showing the assigned earthquake risk zone for each.

Earthquake Risk Zone #1			
Adair	Elliott	Laurel	Oldham
Allen	Estill	Lawrence	Owen
Anderson	Fayette	Lee	Owsley
Barren	Fleming	Leslie	Pendleton
Bath	Floyd	Letcher	Perry
Bell	Franklin	Lewis	Pike
Boone	Gallatin	Lincoln	Powell
Bourbon	Garrard	Logan	Pulaski
Boyd	Grant	Madison	Robertson
Boyle	Grayson	Magoffin	Rockcastle
Bracken	Greene	Marion	Rowan
Breathitt	Greenup	Martin	Russell

Breckinridge	Hancock	Mason	Scott
Bullitt	Hardin	Meade	Shelby
Butler	Harlan	Menifee	Simpson
Campbell	Harrison	Mercer	Spencer
Carroll	Hart	Metcalfe	Taylor
Carter	Henry	Monroe	Todd
Casey	Jackson	Montgomery	Trimble
Christian	Jefferson	Morgan	Warren
Clark	Jessamine	Muhlenberg	Washington
Clay	Johnson	McCreary	Wayne
Clinton	Kenton	McLean	Whitley
Cumberland	Knott	Nelson	Wolfe
Daivess	Knox	Nicholas	Woodford
Edmonson	Larue	Ohio	

Earthquake Risk  
Zone #2

Caldwell  
Calloway  
Crittenden  
Henderson  
Hopkins  
Lyon  
Trigg  
Union  
Webster

Earthquake Risk  
Zone #3

Ballard  
Carlisle  
Fulton  
Graves  
Hickman  
Livingston  
Marshall  
McCracken

(6) Change subsection 1301.5.6.1.7 to read as follows: "Glazing in fixed panels having a glazed area in excess of nine (9) square feet (0.84 m<sup>2</sup>) with the lowest edge less than eighteen (18) inches (457 mm) above the finish floor level or walking surface within thirty-six (36) inches (914 mm) of such glazing, and the finish floor or walking surface are extended on both sides of said glazing. In lieu of safety glazing, such glazed panels may be protected with a horizontal member not less than one and one-half (1 1/2) inches (38 mm) in width when located between twenty-four (24) inches (610 mm) and thirty-six (36) inches (914 mm) above the walking surface."

(7) Change section 1301.0 by adding a new subsection 1301.5.6.3 which shall read as follows:

(a) "1301.5.6.3 Labeling requirements:

1. each light of safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in such a location within the Commonwealth of Kentucky shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1 and Z-97.1a listed in Appendix A and such further requirements as may be adopted by the department of housing, buildings and construction. The label must be legible and visible after installation. Such safety glazing labeling shall not be used on other than safety glazing materials."

(8) Change subsection 1410.4 and the Exceptions thereto to read as follows: "1410.4 Duct and pipe shafts: In all buildings other than buildings of Use Group R-2, vertical pipes arranged in groups of two (2) or more which penetrate two (2) or more floors and occupy an area of more than one (1) square foot (0.093 m<sup>2</sup>), and vertical ducts which penetrate two

(2) or more floors, shall be enclosed by construction of not less than one (1) hour fire-resistance rating to comply with this section. All combustible pipes and ducts connecting two (2) or more stories shall be enclosed as indicated herein.

Exceptions:

1. In all buildings of Use Group R-2, vertical noncombustible ducts shall not be required to have a one (1) hour enclosure provided:

(a) the cross sectional area does not exceed thirty-five (35) square inches;

(b) the duct does not penetrate more than three (3) floors;

(c) the duct serves no more than one (1) dwelling unit and shall not join other ducts except above the top level for the purpose of utilizing a single roof penetration; and

(d) these ducts are restricted for use as a bathroom or kitchen exhaust, and combustion air supply and relief.

2. Combustible pipe shall be permitted where approved by Article 22 of this code. Noncombustible fittings shall be required where branch lines enter into or exit from rated walls, with no requirement for one (1) hour enclosure."

(9) Add the following language and NFPA Standards to Appendix A:

"These NFPA Standards are to be used for fire suppression requirements and design only, where referenced in a specific code requirement in the body of the Code."

BOCA Guide for Suppression Requirements  
for Specific Occupations

Aircraft Hangars	NFPA 409
Cellulose Nitrate Film	NFPA 40
Pyroxylin Plastics	NFPA 40C
Flammable Liquids	NFPA 30, NFPA 36
Paint Spray	NFPA 33
Dipping and Coating	NFPA 34
Laboratories	NFPA 45
Fireworks	NFPA 44A
Gaseous Oxidizing Materials	NFPA 43C
Heliports	NFPA 418
L.P. Gas Storage	NFPA 58
High Piled Storage in Excess of 12 ft. in height	NFPA 231
Rack and Palletized Storage in Excess of 12 ft. in height	NFPA 231C
Rubber Tire Storage	NFPA 231D
Baled Cotton Storage	NFPA 231E
Rolled Paper Storage	NFPA 231F
Rangehoods	NFPA 26
Computer Rooms	NFPA 75
Archives and Record Centers	NFPA 232AM
L.P. Gas Storage and Handling	NFPA 59A
Explosion Prevention Systems	NFPA 69
Fur Storage	NFPA 81
Cooling Towers	NFPA 214
Marinas and Boatyards	NFPA 303
Library Stacks	NFPA 210
Wood Working Facilities	NFPA 664

(10) Amend Article 18 as follows:

(a) In subsection 1805.2, change the words, "Section 2205.4" to read "Article 22, 815 KAR 20:090."

(b) In subsection 1807.2.1 and 1807.2.2, insert the words "two (2) feet (610 mm)" in spaces provided.

(11) Delete Article 22 in its entirety and substitute the following reference: "2200.1 General: See Kentucky State Plumbing Code for all the requirements for plumbing installations as set forth in Chapter 20, Title 815 of Kentucky Administrative Regulations. Informational copies are available from the Kentucky Division of Plumbing, U.S. 127 South, Frankfort, Kentucky 40601."

CHARLES A. COTTON, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: January 17, 1985

FILED WITH LRC: February 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 22, 1985 at 2 p.m. in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, the 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by March 18, 1985, the hearing may be cancelled.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? N/A

#### CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

902 KAR 4:060. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC).

RELATES TO: KRS 194.050, 211.180

PURSUANT TO: KRS 194.050(1), 211.090, 211.180

NECESSITY AND FUNCTION: P.L. 95-627, the "Child Nutrition Act of 1966," as amended and 7 CFR, Part 246, authorizes grants for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Special Supplemental Food Program for Women, Infants and Children (WIC) in accordance with applicable federal laws and regulations.

Section 1. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources hereby adopts the "Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC)-Fiscal Year 1984-1985 [1983-1984]" by reference as the Kentucky WIC Program regulation covering all phases of program operation including but not limited to program eligibility for services, the provision of nutrition education and supplemental foods in accordance with federal regulations and guidelines, and other relevant components of the program. A copy of the Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC)-Fiscal Year 1984-1985 [1983-1984] (two (2) volumes) has been filed with the United States Department of Agriculture, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30367. A copy shall be on file and available for public inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

C. HERNANDEZ, M.D., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 12, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985, of their desire to appear and testify at the hearing: Hughes Walker General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Peggy S. Kidd

(1) Type and number of entities affected: 63,000 clients per month in 120 counties

(a) Direct and indirect costs or savings to those affected:

1. First year: NA

2. Continuing costs or savings: NA

3. Additional factors increasing or decreasing costs (note any effects upon competition): Services are ongoing, therefore there are no changes

(b) Reporting and paperwork requirements: No additional paperwork requirements

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: NA

2. Continuing costs or savings: NA

3. Additional factors increasing or decreasing costs: Services are ongoing therefore NA

(b) Reporting and paperwork requirements: No additional paperwork requirements

(3) Assessment of anticipated effect on state and local revenues: Services already ongoing therefore no effect on state and local revenues

(4) Assessment of alternative methods; reasons why alternatives were rejected: Only efficient alternative available

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Tiering Not Applicable

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**  
**(Proposed Amendment)**

**902 KAR 8:020. Policies and procedures for local health department operations.**

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies set forth in the February 15, 1985, [December 11, 1984,] edition of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The policies set forth in the November 15, 1984, edition of the "Financial Management Manual" governing the operation of the financial management systems used by local health

departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies set forth in the February, 1984, edition of the "Planning Manual for Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies set forth in the May 15, 1984, edition of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-Line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. Consumer Product Safety Commission's Hazardous Substances Labeling Guide. The policies set forth in the May 25, 1979, edition of the "Consumer Product Safety Commission's Hazardous Substances Labeling Guide" are hereby adopted by reference.

Section 10. Consumer Product Safety Commission's In-Depth Investigations Manual. The policies set forth in the January 28, 1983, edition of the "Consumer Product Safety Commission's In-Depth Investigations Manual" are hereby adopted by reference.

Section 11. MCH Maternity Manual. The policies set forth in the May 11, 1984, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by

reference.

Section 12. Sudden Infant Death Syndrome Program. The policies set forth in the January 1, 1985, edition of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the May 11, 1984, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Regional Pediatric Clinics. The policies set forth in the May 11, 1984, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 15. Standards for Preventive Health Care in Children. The policies set forth in the May 11, 1984, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 16. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 17. Summary of Amendment. [(1)] In relation to Section 1 of this regulation relating to the Local Health Policy Manual add a new LHP "Appointment of Board of Health Members 300-7" to define the terms of office for county and district boards of health, define the phrase "until their successor is appointed," specify the nomination process for both county and district boards, and describe the process for removal and reinstatement of positions to county boards of health. [strike LHP 300-3 dated 7-1-82 and substitute in lieu thereof LHP 300-3 dated 12-11-84 granting exemption to the stated conflict of interest in contracted health providers serving on local boards of health when other providers are unavailable, and identifying contracted providers as employees of the health department for the purposes of this policy; elimination of redundancy in the wording of the policy.]

[(2)] In relation to Section 12 of this regulation relating to the Sudden Infant Death Syndrome Program manual, add pages 21 through 29, dated 1-1-85. This amendment sets guidelines for the rental and use of apnea monitors for some medically needy infants.]

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 8, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, KY. 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Phillip R. Spangler

(1) Type and number of entities affected:  
Local health departments - 40

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None added

(2) Effects on the promulgating administrative body:

(a) Direct costs: None

1. First year:

2. Continuing costs:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None added

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. N/A

#### CABINET FOR HUMAN RESOURCES Department for Mental Health and Mental Retardation Services (Proposed Amendment)

902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the January 1, 1985, edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood

ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the December 1, 1984, edition of the "Hazelwood Policy Manual" consisting of two (2) volumes relating to the operation of Hazelwood ICF-MR Facility are hereby adopted by reference.

Section 3. Central State Hospital ICF-MR Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Central State Hospital ICF-MR Policy Manual" consisting of two (2) volumes relating to the operation of Central State Hospital ICF-MR Facility are hereby adopted by reference.

Section 4. Eastern State Hospital Policy Manual. The policies and procedures set forth in the February 1, 1985, [December 1, 1984,] edition of the "Eastern State Hospital Policy Manual" consisting of twenty-one (21) volumes relating to the operation of Eastern State Hospital Facility are hereby adopted by reference.

Section 5. Central State Hospital Policy Manual. The policies and procedures set forth in the September 1, 1984, edition of the "Central State Hospital Policy Manual" consisting of nineteen (19) volumes relating to the operation of Central State Hospital Facility are hereby adopted by reference.

Section 6. Western State Hospital Policy Manual. The policies and procedures set forth in the February 1, 1985, [January 1, 1985,] edition of the "Western State Hospital Policy Manual" consisting of thirty-one (31) volumes relating to the operation of Western State Hospital Facility are hereby adopted by reference.

Section 7. Glasgow ICF Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Glasgow ICF Policy Manual" consisting of twelve (12) volumes relating to the operation of Glasgow ICF Facility are hereby adopted by reference.

Section 8. Western State Hospital ICF Policy Manual. The policies and procedures set forth in the February 1, 1985, [January 1, 1985,] edition of the "Western State Hospital ICF Policy Manual" consisting of nine (9) volumes relating to the operation of Western State Hospital ICF Facility are hereby adopted by reference.

Section 9. Volta Policy Manual. The policies and procedures set forth in the September 1, 1984, edition of the "Volta Policy Manual" consisting of one (1) volume relating to the operation of Volta Facility are hereby adopted by reference.

Section 10. Kentucky Correctional Psychiatric Center Policy Manual. The policies and procedures set forth in the February 1, 1985, [January 1, 1985,] edition of the "Kentucky Correctional Psychiatric Center Policy Manual" consisting of thirteen (13) volumes relating to the operation of Kentucky Correctional Psychiatric Center Facility are hereby adopted by reference.

Section 11. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 12. Summary of Amendment.

Section 4 is revised as follows:

EASTERN STATE HOSPITAL POLICY MANUAL - D-1  
Section II

Policy #39 "Inclement Weather to Patients"  
is added for patient protection  
during inclement weather when  
conditions are unsafe for  
patients to leave the wards  
unescorted.

Section 6 is revised as follows:

WESTERN STATE HOSPITAL POLICY MANUAL - F15

#IV Policy revised to change employee  
classification of Health Aide to  
reflect the new classification of  
Patient Aide.

#V Policy deleted - initial training is no  
longer given.

#XIII Policy revised to show new processing  
route for tuition assistance  
applications.

#XVI Policy revised to require monthly  
reports.

Section 8 is revised as follows:

WESTERN STATE HOSPITAL INTERMEDIATE CARE  
FACILITY POLICY MANUAL - H10

A new Diet Manual is developed utilizing part of  
the Diet Manual of Western State Hospital and  
adding a section on "Supplemental Feedings."

Section 10 is revised as follows:

KENTUCKY CORRECTIONAL PSYCHIATRIC CENTER POLICY  
MANUAL - J9

J9-1- policy revised to require utilization  
of a new referral form.

J9-2- policy revised to require use of Intake  
Summary Form for more useful  
information.

J9-3- policy title is changed from Securing  
Patient Information and Securing  
Patient Information from Other Agencies.

J9-4- a new policy listing conditions for  
admission to and discharge from Other  
Agencies.

J9-5- Admission for Continuing Treatment is  
revised to show the role of the  
Director of Outpatient Services, and  
the Medical Records Department.

# ADMINISTRATIVE REGISTER - 1327

J9-6- Policy revised to show records to be maintained by Outpatient Services.

J9-7- Policy revised to require social worker statement and the signature of supervisor for non-privileged staff.

J9-8- Psychosocial History Update: This policy was revised to include medical, family, and institutional information and to require signature of supervisor for non-privileged staff.

J9-9- Treatment Planning: Minor revisions were made in the policy to more accurately reflect the intent of treatment planning.

J9-10- Treatment Planning Reviews: This policy was changed to standardize the frequency of treatment plan reviews as required by JCAH standards.

J9-11, J9-12, J9-13, J9-14 had no changes.

J9-15- Discharge Summary: Policy and procedure was edited for clarity and added the requirement of co-signature of the supervisor for non-privileged staff.

J9-16- Discharge Procedures: This policy is a new policy to establish a standard procedure for the discharge of patients from the service.

J9-17- Staff Services Log: The policy statement was revised, deleting "serve as a method to keep notes for entering into medical charts," this being done to reduce duplication of documentation.

J9-18- Monthly Report & Statistical Summary: The requirements for the monthly report have been changed by the administration during the year and this policy was revised to correspond to the administrations requirements.

J9-19- Patient Census - No Change

J9-20- Personnel Policy - No Change

OPS Policy & Procedure - "Transfer Summary & Update" has been deleted.

[Section 1 is revised as follows:

OAKWOOD POLICY MANUAL - A-1 - Volume I

DST-0-1 #3 Revised Departmental Organizational Chart Attachment only

DST-0-2 #5C Requires written reports to be submitted to IDT Staffing Chairman earlier

OAKWOOD POLICY MANUAL - A-3 - Volume III

DST-2-2 #33C Increases accountability and security of medications administered in the cottage

DST-2-5 #2B Adjusts pharmacy hours of operation

#25B Increases accountability and security of drug deliveries

#27 New policy - insures control of cottage and infirmary medications on weekends and holidays, extra doses, and PRN's

DST-3-6 #1B Adjusted to reflect coordinative services of all recreation programs]

[Section 6 is revised as follows:

WESTERN STATE HOSPITAL POLICY MANUAL - F-31 - Section IV

F31 Section IV #17 A new policy on search for dangerous weapons is established]

[Section 8 is revised as follows:

WESTERN STATE HOSPITAL INTERMEDIATE CARE FACILITY POLICY MANUAL - H-4

H4 Section I P.9 Revised to change name of chief nurse

H4 Section I P.10 Revised to change name of chief nurse

H4 Section I P.11 Revised to change name of chief nurse

H4 #8 P.1 Revised to change ward # to Ward 31 l.

H4 #9 Revised to 11-7 shift to read 11:00 p.m. to 7:00 a.m.

H4 #12 Revised to change ward # to Ward 31 l, and to change 11-7 shift to read 11:00 p.m. to 7:00 a.m.

H4 #29 Revised to delete WPPR performance raises

H4 #43 Revised to add statement if an employee does not work extra after three requests the employee's name will be dropped from the list

H4 Section III 7-3 shift duties - revised to explain current duties

H4 Section III 3-11 shift duties - revised to explain current duties

H4 Section III 11-7 shift duties - revised to explain current duties

H4 #40 Revised because new parking permits were issued

H3 Table of Contents - Revised to include new material

H3 Section IV - Procedure 13 - new bowel training program

- H3 Section IV - Procedure 14 - new bladder training program
- H8 Section B - Social Service Assessment - revised to include more information
- H8 Section B - Patient Admissions - Item 4 - revised to show current information]

[Section 10 is revised as follows:

KENTUCKY CORRECTIONAL PSYCHIATRIC CENTER POLICY MANUAL - J-1

- J1 A44 Revised policy to restrict the back door to the nurses stations as a security precaution
- J1 B33 Revised to restrict the number of patients who can use the gym, and to allow officers near the gym to respond to a "code 500" call
- J11-14 New policy - to define responsibilities of licensed physicians according to licensure standards]

DENNIS D. BOYD, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 12, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1985, at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985, of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? Yes.

CABINET FOR HUMAN RESOURCES  
Department for Health Services  
(Proposed Amendment)

902 KAR 13:050. Training, examination and certification.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

PURSUANT TO: KRS 13.082, 211.964

NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet [Department] for Human Resources to adopt rules and regulations relating to Emergency Medical Technicians. The function of this regulation is to establish requirements for training; examinations, certifications; and renewal and recertification of Emergency Medical Technicians.

Section 1. EMT Training Course Requirements. The training course shall:

(1) Include the U.S. Department of Transportation curriculum and such additions to the curriculum as prescribed by the cabinet [department];

(2) Be at least ninety-nine (99) [eighty-seven (87)] hours in duration;

(3) Not be started until all equipment, texts, television tapes, and other materials specified are available, in proper quantities, in proper working condition, and placed in secure storage;

(4) Not share equipment between courses unless such equipment is housed in the same building and is available equally to all EMT classes;

(5) Utilize equipment, texts, television tapes and other materials approved by the cabinet [department];

(6) Be taught by an EMT instructor certified by the Cabinet [Department] for Human Resources;

(7) Have at least one (1) EMT instructor-trainee; or one (1) additional EMT instructor;

(8) Have a class certification number assigned by the cabinet [department];

(9) Be limited to thirty (30) students; and

(10) Not permit more than one (1) lesson absence per student, unless made up at the discretion of the instructor, or made up in a subsequent EMT training course.

Section 2. EMT Certification Examination. The cabinet [department] shall prescribe the format and content of the EMT's certification examinations which shall consist of two (2) parts:

(1) Written. The written examination shall be in four (4) parts. An overall passing grade of seventy-five (75) percent, shall be required. In the event an applicant's overall average is less than seventy-five (75) percent, but is seventy (70) percent or more, the applicant may, upon proper application, re-take the part in which he made the lowest score. However, should the applicant again fail, he shall be required to re-take the entire EMT training course before being eligible for re-examination.

(2) Practical. The applicant shall



successfully pass all parts of the final practical examination. In the event he fails to successfully pass all portions of the final practical examination, he shall be permitted one (1) opportunity to re-take the part which he failed to pass. However, should the applicant again fail to pass the particular part of the examination, he shall be required to re-take the entire EMT training course before being eligible for re-examination.

Section 3. Certification of EMTs and EMT-A. The cabinet [department] shall certify EMTs based upon the type of service to be rendered. An EMT engaged in ambulance service shall be issued certification as an "Emergency Medical Technician-Ambulance (EMT-A)."

Section 4. Expiration of Certification. All EMT certificates shall expire two (2) years from the date of issuance.

Section 5. Renewal of Certification; Inservice Training or Continuing Education Requirements. In order to renew a certificate, the emergency medical technician shall, during his period of certification, attain at least sixteen (16) hours of inservice training or continuing education, or a combination thereof, and show evidence of certification in cardiopulmonary resuscitation as required by the American Heart Association or the American National Red Cross [successfully pass a written and practical renewal examination, prescribed by the department. Renewal examinations shall be subject to the same conditions as the original certification examinations].

(1) Subject matter requirements for EMT inservice training or continuing education.

(a) To receive credit for inservice training or continuing education, the applicant for recertification may take inservice training or continuing education on any subject covered by the United States Department of Transportation Emergency Medical Technician curriculum, 3rd edition, or any subject for which instruction is authorized by the Cabinet for Human Resources for the Emergency Medical Technician Program in Kentucky.

(b) The applicant for recertification shall submit evidence of successful completion of instruction in at least four (4) different areas of emergency medical technician course subject matter instruction or skills instruction, in addition to cardiopulmonary resuscitation.

(c) The following are not eligible for credit as inservice training or continuing education:

1. Ambulance runs, rescues, firefighting, emergency responses, or similar actual emergency activities.

2. Instruction in material, techniques, or procedures not authorized to be performed by emergency medical technicians.

(d) Evidence of training and CPR certification shall be submitted to the cabinet not less than thirty (30) days before the expiration of the EMT's certification on forms supplied by the cabinet.

(e) The form provided by the cabinet shall contain a certification as to the truth of the information supplied and a statement that all training claimed conforms to the requirements of this regulation and a warning that submission of false information constitutes a violation of law.

(f) Each subject or training course claimed shall be countersigned by the instructor of the subject or course.

(g) Training received as a requirement for continuing education in medicine, nursing, paramedic, or as an EMT in a coal mining situation required by KRS 351.127 is eligible for inservice training or continuing education credit if it meets the criteria of paragraph (a) of this subsection.

(2) Instructors for EMT inservice training and continuing education. The following persons are considered as qualified to conduct inservice training and continuing education courses for emergency medical technicians:

(a) A physician licensed pursuant to KRS Chapter 311.

(b) A registered nurse licensed pursuant to KRS Chapter 314.

(c) A paramedic certified by the State Board of Medical Licensure.

(d) An emergency medical technician instructor or instructor trainer certified by the Cabinet for Human Resources.

(e) An instructor certified by a state or federal agency who is teaching within the area authorized by his certification a course which will qualify for emergency medical technician inservice training or continuing education.

(f) Physicians, registered nurses, paramedics or emergency medical technician instructors currently licensed or certified by another state of the United States of America shall be considered as meeting the requirements of paragraphs (a) through (e) of this subsection, as applicable.

(3) Cardiopulmonary resuscitation requirement. During the second year of the certification period the EMT shall obtain or renew certification in cardiopulmonary resuscitation and related techniques as follows:

(a) The course shall be conducted by the American Heart Association or the American National Red Cross or under its authority by an instructor certified by the American Heart Association or the American National Red Cross.

(b) The course shall be taught for record and shall be certified by the instructor to the American Heart Association or the American National Red Cross as meeting all applicable standards of the organization.

(c) The course shall provide instruction and testing in:

1. One (1) rescuer cardiopulmonary resuscitation;

2. Two (2) rescuer cardiopulmonary resuscitation;

3. Techniques of changing from one (1) rescuer to two (2) rescuers during the performance of cardiopulmonary resuscitation;

4. Techniques of changing rescuers during the performance of two (2) rescuer cardiopulmonary resuscitation;

5. Techniques for relief of obstruction of the airway;

6. Cardiopulmonary resuscitation of infants and small children;

7. Mouth to mouth/mouth to nose resuscitation for adults, small children, and infants.

(d) The course shall provide for individual skill testing of all adult and infant related skills in subsection (3) of this section.

(e) The applicant for renewal of certification shall forward to the Cabinet for Human Resources

a copy of both sides of the certificate issued to him indicating successful completion of the CPR course.

(4) Inservice training and continuing education requirements for emergency medical technician instructors and instructor trainers.

(a) An emergency medical technician instructor or instructor trainer shall meet the inservice training or continuing education requirements for recertification in the following manner:

1. Conduct an emergency medical technician course; or

2. Teach one (1) or more lessons of an emergency medical technician course; or

3. Teach one (1) or more lessons of an inservice training or continuing education course; or

4. Conduct a final practical examination or challenge examination for an emergency medical technician course; and

(b) If paragraph (a)2 through 4 of this subsection are claimed for recertification, the total number of hours spent in instruction or examinations shall not be less than sixteen (16) hours. Any combination of hours totalling sixteen (16) may be used; and

(c) An emergency medical technician instructor trainer may utilize time spent in conducting an emergency medical technician instructor course or evaluation in lieu of time required in paragraph (a) of this subsection; and

(d) An emergency medical technician instructor or instructor trainer shall attend either the annual emergency medical technician instructor conference or the annual training session for newly appointed instructors. Time spent at such conferences may be used as credit toward the time required in paragraph (a) or (b) of this subsection; and

(e) Additionally, each emergency medical technician instructor or instructor trainer shall meet the cardiopulmonary resuscitation requirement or shall teach a cardiopulmonary resuscitation course for record or shall teach the cardiopulmonary resuscitation portion of the emergency medical technician course to emergency medical technician students.

Section 6. Temporary Extension of Certificate. Upon a showing of undue hardship in obtaining [retaking] the required inservice training or continuing education [examinations] for renewal, the cabinet [department] may extend a certificate for an additional six (6) months.

Section 7. Emergency Medical Technicians Certified in Other States and U.S. Military corpsmen. Upon proper application, and upon payment of the prescribed fee, the following may take the Kentucky "Challenge Examination," consisting of both written and practical parts, for certification as an EMT:

(1) U.S. Military Corpsmen, within a period of one (1) year from the date of discharge, who have either a:

(a) U.S. Army MOS 91B or 91C; or

(b) Its equivalent for other services.

(2) Emergency medical technicians, currently certified in other states.

C. HERNANDEZ, M.D., M.P.H., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 6, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas A Thompson

(1) Type and number of entities affected: 8,500 Emergency Medical Technicians

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Slightly higher

2. Continuing costs or savings: Same as #1.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Slightly higher

(3) Assessment of anticipated effect on state and local revenues: No effect

(4) Assessment of alternative methods; reasons why alternatives were rejected: Change necessitated by H.B. 493.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not permitted by statute.

#### CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

902 KAR 100:012. Fee schedule.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)

PURSUANT TO: KRS 194.050, 211.090, 211.848

NECESSITY AND FUNCTION: KRS 211.848 directs the Secretary of the Cabinet [Department] for Human Resources to provide by regulation for a reasonable schedule of fees and charges to be paid by applicants for registration of radiation producing machines and radioactive material licenses and for the renewal thereof and for inspections and environmental surveillance activities conducted by the cabinet [department]. The purpose of this regulation is to establish a fee schedule for registration, licensing and inspection services.

Section 1. Applicability. This regulation relating to fees applies to all applicants, registrants and licensees of radiation producing machines and radioactive materials, except governmental agencies.

Section 2. Schedule of Annual Fees and Charges. The following schedule of annual fees applies to radiation producing machine registrants and radioactive material licensees. All applications for registration or licensing, or annual renewals thereof, shall be accompanied by the appropriate fee set forth below:

(1) X-ray tubes [systems]:

(a) [1.] Each diagnostic[-type] x-ray tube [systems]; therapeutic x-ray tube [systems] capable of operating up to 150 kVp; or industrial x-ray tube [systems] - \$25 [15].

[2. For each additional x-ray system at the same address - \$ 5.]

(b) Each therapeutic x-ray tube [systems] capable of operating at 150 kVp or above (including particle accelerators [systems]) - \$35 [25].

(c) Any other x-ray tube [system] not specified above - \$25 [15].

(d) The total registration fees charged for x-ray tubes [systems] at any institution, facility or office shall not exceed - \$200 [50].

(2) Radioactive material licenses:

(a) Human use of radioactive, source, or special nuclear material - \$200 [25].

(b) [Human] Use of radioactive material authorized by an in vitro or in vivo registration certificate - \$30 [10]

(c) Industrial radiography; wireline service; nuclear pharmacy (including distribution) - \$200 [50].

(d) Processing, manufacturing or distribution of radioactive, source, or special nuclear material or items containing radioactive, source or special nuclear material - \$400 [70].

(e) Industrial gauging, measuring, level detection, or similar use - \$100 [20].

(f) All other radioactive, source, or special nuclear material licenses not specified above - \$100 [20].

(g) The [total] licensing fee charged for a radioactive material license at any institution, facility or office shall not exceed - \$400 [75].

(h) Application for distribution of a new sealed source and device, or the application for the use of a custom device in addition to fees specified in paragraphs (a) through (g) of this subsection - \$400.

(i) Application for amendment to an existing license - \$50.

Section 3. General Requirements. (1) All registration certificates shall expire on June 30 following the date of issuance.

(2) All radioactive material licenses shall be renewed annually based on the expiration date stated in the license.

(3) Payment of fees and other charges shall be submitted to Radiation Control, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, in the form of a check or money order payable to the Kentucky State Treasurer.

(4) In the event a registration certificate has heretofore been issued prior to the effective date of this regulation, specifying an expiration date other than June 30, the cabinet

shall upon renewal of the registration certificate specify an expiration date of June 30.

(5) Registration and licensing application fees are non-refundable. [Current Registrants and Licensees. In the event registration or licensing has heretofore been issued by the department prior to the effective date of this regulation and no date of expiration is specified in such registration or licensing certificate, such certificate shall expire on July 1, 1980, and the applicable fee specified in Section 2 shall be due and owing. Thereafter, all such registrations and licenses shall expire one (1) year following the date of issuance.]

Section 4. Exemptions. State and local governmental agencies shall be exempt from the payment of fees but shall comply with the other applicable provisions of these regulations.

E. AUSTIN, JR., Secretary

C. HERNANDEZ, Commissioner

APPROVED BY AGENCY: February 4, 1985

FILED WITH LRC: February 5, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985, of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Irving Bell

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: Increase fee approximately \$10 per tube for registrants (x-ray) and increase approximately \$175 per licensee (radioactive material)

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs (note any effects upon competition): Fees were too low. Needs revision to closer align with other states and U.S. Nuclear Regulatory Commission.

(b) Reporting and paperwork requirements: Same

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Savings: \$95,000 additional fees.

2. Continuing costs or savings: Savings:

Approximately \$95,000 annual additional fees.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Same

(3) Assessment of anticipated effect on state and local revenues: Revenues will increase approximately \$95,000 annually.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments:

Tiering:

Was tiering applied? Yes.

**CABINET FOR HUMAN RESOURCES**  
**Department for Employment Services**  
**Division of Unemployment Insurance**  
**(Proposed Amendment)**

**903 KAR 5:260. Unemployment insurance procedures.**

RELATES TO: KRS 341.005 through 341.990

PURSUANT TO: KRS 13A.100, 194.050(1), 341.115

NECESSITY AND FUNCTION: Title III of the Social Security Act authorizes the states to implement an unemployment insurance program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the procedures required to administer the unemployment insurance program in accordance with applicable state and federal laws and regulations.

Section 1. In order to facilitate the administration of the unemployment insurance program as authorized by Title III of the Social Security Act and KRS Chapter 341, the following operating manuals are adopted by reference:

(1) Unemployment Insurance Local Office Manual as issued February 1984 and last revised January 25, 1985 [December 17, 1984]. This manual includes procedures: for requiring proper identification of persons filing claims for benefits; for taking and processing initial, additional, reactivated and continued claims for benefits; for assigning claimants to the appropriate group for the eligibility review program; for conducting benefit rights interviews; for processing payorder cards for payment; for correcting and changing benefit data; for registering claimants for work; for conducting the eligibility review program; for stopping and releasing payment of benefits; for entering claim history and benefit payment information into the data base; for taking and processing interstate claims, combined wage claims, claims by former federal employees and ex-service-members, and claims for extended benefits and federal supplemental compensation benefits; for conducting investigations and issuing determinations regarding a claimant's separation, ability to work, availability for work, active search for work, benefit entitlement, and deductions from benefits; for processing employers' protests to claims; for taking requests for reconsideration of monetary eligibility; for establishing benefit overpayments and initiating recovery or recoupment by processing partial payment agreements or issuing liens; for initiating action on lost or returned checks; for detecting and initiating recovery of fraudulent overpayments; for filing appeals to eligibility

determinations; for reporting workload time spent; for compiling claims and nonmonetary determination statistics; and for ranking of local offices based on performance criteria.

(2) Unemployment Insurance Benefit Branch Procedures Manual issued May, 1982 and last revised December 12, 1984. This manual includes procedures for administering the payment of unemployment insurance benefits; for maintaining accounts for all benefit income and expenditures; for detecting, establishing and initiating recovery of benefit overpayments; for assigning benefit charges to employer accounts; for conducting a quality review of nonmonetary determinations affecting the payment of benefits; for processing unemployment claims for former federal employees, ex-service-members, combined wage claimants, interstate claims, claims for Disaster Unemployment Assistance, claims under the Trade Readjustment Act and claims under the Work Incentive Program; for reconsidering monetary rate determinations; for processing payment for lost or returned benefit checks; and for investigating potential fraud and recommendation of recovery action or criminal prosecution.

(3) Unemployment Insurance Tax Collection and Accounting Branch Manual issued November, 1982 and last revised January 15, 1985 [October 29, 1984]. This manual includes procedures: for setting up, transferring and cancelling employer contribution and reimbursement accounts; for collecting quarterly taxes from contributory employers and for billing reimbursing employers for benefits paid; for auditing quarterly wage and tax reports by making adjustments, assessing additional payment and penalties and crediting tax overpayments; for maintaining records of employer accounts and tax payments; for adjusting wages if required when a reconsideration of monetary benefit eligibility is filed; and for collecting delinquent taxes by filing tax liens, recommending suits and temporary restraining orders, garnishing wages, filing claims in bankruptcy or against monies due to delinquent employers from state agencies.

(4) Unemployment Insurance Administrative Support Branch Manual issued December, 1983 and last revised November 9, 1984. This manual includes procedures: for maintaining files of benefit claims, employer records, appeals, and unemployment insurance commission orders; for maintaining mail security operations for all checks received by the division; for gathering statistics and conducting statistical studies; for verifying workload items for the budget process; for publishing statistical reports for the division and for general publication; for maintaining and distributing federal and state-released procedures; for maintaining all procedures manuals; for conducting the unemployment insurance quality appraisal; for training division personnel; for retaining and disposing of records; for providing data processing liaison services; for preparing state and federal budgets; for operating the Cost Model Management System; for maintaining the Cost Information System; for controlling forms control; and for monitoring purchases, expenditures and repairs.

(5) Unemployment Insurance Field Audit Manual issued February 1984 and last revised January 11, 1985 [September 3, 1984]. This manual includes procedures for handling matters which

cannot be handled directly or expediently by the central office tax branch, such as procedures: for locating employers; for conducting investigations of employers, and their payrolls and employment records; for determining an employer's status under the law; for assessing contributions and collecting delinquent contributions; for serving legal papers; for conducting property investigations; for auditing employer records; and for furnishing technical assistance to employers.

(6) Unemployment Insurance Director's Office Manual issued November 18, 1983, and last revised December 12, 1984. This manual includes procedures for operating the Fraud Investigations and Internal Security Unit such as procedures for: administering the unit; detecting fraud; prosecuting fraud cases; closing out fraud cases; preventing fraud; maintaining internal security; and conducting other investigations.

Section 2. Summary of Amendment. (1) Unemployment Insurance Local Office Manual.

(a) Chapter 1000, Introduction, Sections 1000-1040, strike entire chapter dated 4-1-83 and substitute in lieu thereof entire chapter dated 1-14-85 which updates procedures for making tax-related forms available to area employers. [Chapter 3000, Continued Claims, Section 3300, strike pages 39 and 40, dated 3-7-84, which contain procedures for microfilming payorder cards.]

(b) Chapter 2000, Initial Claims, Section 2260, strike pages 33 and 34, dated 11-3-84 and substitute in lieu thereof pages 33 and 34, dated 1-25-85 which update procedures for processing additional claims. [Chapter 2000, Initial Claims, Sections 2010, 2020, and 2170 strike pages 3 through 4; dated 10-2-84; pages 4A and 4B, dated 10-19-84; and pages 29 and 30, dated 9-11-84 and substitute in lieu thereof pages 3 and 4, dated 10-19-84; pages 4A and 4B, dated 11-9-84; and pages 29 and 30, dated 12-12-84 which update procedures for eliminating the taking of unnecessary requests for reconsideration and informing claimants during the benefit rights interview of the computer crossmatch of benefit payments and wages reported which is performed as a fraud detection measure.]

(c) Chapter 5000, Interstate and Combined Wage Claims, Section 5670, strike page 90, dated 11-21-84 and substitute in lieu thereof page 90, dated 1-25-85 which updates procedures for data entry and processing of combined wage claims when there are insufficient wages to establish a valid Kentucky claim. [Chapter 4000, Video Operations, Contents Page and Sections 4100, 4105, 4110, 4115, 4120, 4140, 4145 and 4150, strike Contents page, dated 11-2-84; pages 2 through 7, dated 10-13-84; and pages 8 through 21, dated 10-25-83 and substitute in lieu thereof Contents page, dated 11-9-84; pages 2 through 11, dated 10-19-84; pages 12 through 26, dated 10-25-84; and renumber pages 22 through 35 to pages 27 through 40 which update procedures for accessing: Program 48, New Wage Records; Program 40, Out-of-Balance Wage Record File; Program 42, Employer Status and Contributions; Program 41, UI Benefits Name Inquiry; Program 4B, UI Claims and Benefits Data; Program 43, UI Claim Determination; Program 4N, UI News; and Program 46, UI Micrographics Inquiry and

through 11, dated 10-19-84; pages 12 through 26, dated 10-25-84; and renumber pages 22 through 35 to pages 27 through 40 which update procedures for accessing: Program 48, New Wage Records; Program 40, Out-of-Balance Wage Record File; Program 42, Employer Status and Contributions; Program 41, UI Benefits Name Inquiry; Program 4B, UI Claims and Benefits Data; Program 43, UI Claim Determination; Program 4N, UI News; and Program 46, UI Micrographics Inquiry and Request.]

(d) Chapter 6000, Claims Investigation, Sections 6021, 6022, 6031, 6033 and 6130 through 6134, strike pages 1 and 4, 20, 21, 24, 25, 30, 31, 74 and 75, all dated 10-17-84; pages 28 and 29, dated 10-30-84; and pages 5 and 6, dated 11-30-84 and substitute in lieu thereof pages 1 through 6 and 74 through 75C, dated 1-15-85; and pages 20, 21, 24 through 24B, 25 and 28 through 31A, all dated 1-11-85 which include policy and procedures formerly contained in U.I. Bulletins 3, 6 and 12 relating to suitable work applications, pension deductions and training programs. [Chapter 6000, Claims Investigation, Sections 6000 through 6308, strike entire old chapter, various dates: pages 78, 79, 5, 6, 90, 91, 94 and 95, dated 10-17-84; pages 90 through 91A, dated 11-30-84; and pages 94 and 95, dated 11-30-84 and substitute in lieu thereof pages 1 through 105, all dated 10-17-84; pages 78 and 79, dated 11-9-84; pages 5 and 6, 90 through 91A, pages 94 and 95, all dated 11-30-84; pages 90 through 91A, dated 12-11-84; and pages 94 and 95, dated 12-7-84 which update procedures for: determining which separations may be disqualifying; determining the deductibility of income from benefits; determining the chargeable employer on a claim; handling employers' protests to claims; processing requests for monetary reconsiderations; conducting investigations for an issuance of nonmonetary determinations; and completing partial payment agreements and auditing local office receipt books; and accepting cash for repayment of benefit overpayments.]

(e) Chapter 12000, Personnel Time Distribution System, Section 12180, strike pages 33 through 36, dated 10-5-82 and substitute in lieu thereof pages 33 through 36, dated 1-25-85 which update time distribution codes for Random Audit/Quality Control activities. [Chapter 12000, Personnel and Time Distribution, Section 12027, strike pages 7 and 8, dated 1-27-84 and substitute in lieu thereof pages 7 and 8, dated 10-19-84 which includes a new time distribution code to be used for Quality Control workload.]

[(f) Chapter 7000, Fraud, Section 7200, strike pages 33 and 34, dated 1-31-84; and pages 33 and 34, dated 11-30-84 and substitute in lieu thereof pages 33 and 34, dated 11-30-84; and pages 33 and 34, dated 12-7-84 which update procedures for completing partial payment agreements.]

[(g) Chapter 14000, Forms and Charts, Sections 14215 and 14220, strike pages 25 and 26, dated 1-3-84; and pages 27 and 28, dated 1-6-83 and substitute in lieu thereof pages 25 and 26, dated 1-1-85; and pages 27 and 28, dated 12-19-84 which update the Benefit Year Ending Chart and the Official Benefit Calendar.]

(2) Unemployment Insurance Tax Collections and Accounting Branch Manual. Chapter 500, Delinquent Account Unit, Sections 515 and 566, strike page 10, dated 5-1-84 and substitute in

lieu thereof pages 10, 1 and 2, respectively, all dated 1-15-85 which update procedures for writing off uncollectible employer debts. [Chapter 100, Status, strike pages 5, 49, 92 and 93 and 99 through 104, all dated 8-1-84 and insert in lieu thereof pages 5, 49, 92 and 93 and 99 through 105, all dated 10-29-84 which update procedures for completing and issuing Notices of Cancellation or Transfer of Reserve Account, Advice of Change of Employer Record and Notices of Employer Subjectivity.]

(3) Unemployment Insurance Field Audit Manual, Chapter 500, Reports, Section 522, strike page 23, dated 3-1-84 and substitute in lieu thereof page 23, dated 1-11-85 which updates procedures for assessing a ten (10) dollar penalty for late filing of employer reports. [Unemployment Insurance Administrative Support Branch Manual.

(a) Chapter 3000, Records Section, Sections 3118, 3320, 3330, 3332, 3334, 3340 and 3380, strike Contents page 2, dated 10-15-83; page 12, dated 2-22-84; pages 13 through 16 and pages 18 and 19, dated 10-15-83; page 2, dated 10-25-84; page 3, dated 11-17-83; pages 5, 7 and 8, dated 6-1-83; and page 13, dated 10-25-84 and substitute in lieu thereof Contents page 2, pages 12 through 16 and pages 18 and 19, dated 10-25-84; pages 2, 3, 5, 7, 8 and 13, dated 11-9-84 which update procedures for employer files maintenance and retention periods for documents.]

[(b) Chapter 4000, Statistical Services Section, Sections 4330 and 4510, strike Contents page 3, dated 2-3-84; page 26, dated 2-13-84; and page 35, dated 12-15-84 and substitute in lieu thereof Contents page 3, page 26 and page 35, all dated 10-19-84 which update procedures for preparing the Department for Employment Services monthly report.]

[(4) Unemployment Insurance Benefit Branch Procedures Manual. Chapter 3000, Fraud, Section 3010, strike pages 1 and 2, various dates, and substitute in lieu thereof pages 1 and 2, dated 12-12-84 which update procedures for processing computer crossmatches of benefit payments and wages reported and increases the amount of fraudulently claimed benefits sufficient for prosecution.]

[(5) Unemployment Insurance Director's Office Manual, Chapter 1100, Fraud Investigations and Internal Security Unit, Section 1110, strike page 4, dated 11-18-83 and substitute in lieu thereof page 4, dated 12-12-84 which increases the amount of fraudulently claimed benefits sufficient for prosecution.]

Section 3. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621 and in local unemployment insurance offices located throughout the state.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 8, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 21, 1985, at 9 a.m., in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office

in writing by March 16, 1985, of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: Unemployment Insurance benefit claimants; thousands per year

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: Minimal

1. First year: Minimal

2. Continuing costs or savings: Minimal

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal reduction

(3) Assessment of anticipated effect on state and local revenues: Minimal savings of state administrative funds

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: This amendment merely incorporates operational procedures by reference as required by KRS Chapter 13A.

Tiering:

Was tiering applied? No

If no, please explain why tiering was not applied: 1) Procedures already in effect

2) All claimants are treated equally under the law.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

904 KAR 1:061. Payments for medical transportation.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's

indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for medical transportation services.

Section 1. Ambulance Services. (1) The cabinet shall reimburse licensed participating ambulance services at the lesser of their usual and customary charges or the maximum rate established by the cabinet.

(2) The maximum rate is the amount arrived at by combining the following component costs, as applicable:

(a) The base rate, which is set at fifty (50) dollars per one (1) way trip and includes all mileage costs for the first ten (10) miles;

(b) A mileage allowance of one (1) dollar per mile for mileage above the first ten (10) miles;

(c) An oxygen rate, which is set at eight (8) dollars per one (1) way trip; and

(d) The cost (as determined by the cabinet) of other itemized supplies.

Section 2. Commercial Transportation Vendors. (1) "Commercial transportation vendors" means those commercial carriers licensed in accordance with the laws of Kentucky, other states, or of the United States to transport members of the general public.

(2) The cabinet shall reimburse commercial transportation vendors at the normal passenger rate charged to the general public, except that the following maximum rates shall be applicable for franchised (licensed) taxi services in those areas of the state where taxi rates are not regulated by the appropriate local rate setting authority, and for franchised (licensed) taxi services in regulated areas when they go outside the medical service area.

(a) The upper limit shall be the usual and customary charge up to a maximum of three (3) dollars for trips of five (5) miles or less, one (1) way, loaded miles.

(b) The upper limit shall be the usual and customary charge up to a maximum of six (6) dollars for trips of six (6) to ten (10) miles, one (1) way, loaded miles.

(c) The upper limit shall be the usual and customary charge up to a maximum of ten (10) dollars for trips of eleven (11) to twenty-five (25) miles, one (1) way, loaded miles.

(d) The upper limit shall be the usual and customary charge up to a maximum of fifteen (15) dollars for trips of twenty-six (26) miles or over, one (1) way, loaded miles.

Section 3. Private Automobile Vendors. (1) "Private automobile vendor" means a person owning or having access to a private vehicle not used for commercial transportation purposes and who uses that vehicle for the occasional medical transportation of eligible recipients. Included within this definition are ambulance type vendors who are non-certified or who have not chosen or been approved to participate in the Title XIX program, if willing to accept private automobile vendor rates.

(2) (a) The cabinet shall reimburse private automobile vendors at the basic rate of twelve (12) cents per mile plus a flat fee of two (2) dollars per eligible passenger if waiting time is required. For round trips of less than five (5) miles the rate shall be computed on the basis of a maximum allowable fee of three (3) dollars for the first passenger plus two (2)

dollars each for waiting time for additional eligible passengers.

(b) For round trips of five (5) to twenty-five (25) miles the rate shall be computed on the basis of a maximum allowable fee of five (5) dollars for the first passenger plus two (2) dollars each for waiting time for additional eligible passengers. The maximum allowable fee rates shall not be utilized in situations where mileage is paid. Toll charges are reimbursable when incurred.

(3) "Maximum allowable fee" means that even though the rate when computed on the basis of twelve (12) cents per mile plus two (2) dollars for waiting time would not equal the three (3) dollars or five (5) dollars allowable amounts, that amount may be paid to encourage private automobile vendors to provide necessary medical transportation. Additionally, nothing in the above subsection (2) should be construed to require the cabinet to pay the amounts specified therein in the event the private automobile vendor expresses a preference for reimbursement in a lesser amount; in that event, the lesser amount will be paid.

(4) "Waiting time" means that period of time following provision of transportation to a medical vendor during which the private automobile vendor is waiting for the recipient to receive medical treatment, in order to provide the return trip required by the recipient. In the instance of an eligible recipient being admitted to a medical institution for inpatient care, waiting time is considered to have occurred when the private automobile vendor waits a sufficient period of time to ensure the recipient's admittance to the facility. Waiting time is a reimbursable component of the private automobile vendor transportation fee only when waiting time occurs. When waiting time occurs due to admittance of the recipient into the medical institution, the private automobile vendor may be reimbursed for the return trip to the point of recipient pick-up as though the client were in the vehicle; that is, the total reimbursable amount is computed on the basis of the maximum allowable fee or mileage rate plus waiting time as shown in subsection (2) of this section.

Section 4. Non-Commercial Group Carriers. (1) "Non-commercial group carriers" means those vendors who provide bus or bus-type medical transportation to an identifiable segment of the eligible recipient group, but not including vendors whose transportation costs are allowable costs under their reimbursement system (e.g., mental health centers). Such segment may be identifiable by geographical boundary, type of medical service required, common medical destination (i.e., clinic, [mental health center,] primary care center, etc.), or other similar grouping method. Included within this definition are:

[(a) Mental health centers providing bus or bus-type service for mental health center patients; and]

[(b)] Community action agencies (or successor agencies) providing bus or bus-type service for a poverty or near-poverty area target population; and

[(c)] Other similar providers as identified by the cabinet.

(2) Reimbursement shall be based on actual



reasonable, allowable cost to the provider based on cost data submitted to the cabinet by the provider; however, the minimum rate shall be twenty (20) cents per recipient per mile transported and the rate upper limit shall be fifty (50) cents per recipient per mile transported.

Section 5. Specialty Individual Carriers. (1) "Specialty individual carrier" means a vendor who provides, through specially equipped vehicles, medical transportation for non-ambulatory recipients (those who are required to travel by wheelchair) or for ambulatory but disoriented recipients (those who are sufficiently disoriented as to time, place, persons or objects so as to be unable to travel to or from medical services unaccompanied or unsupervised), and who provides services not normally available from other transportation vendors. The equipment ordinarily required would be a van or similar type vehicle with a lift for wheelchairs; and the service would be the accompaniment of the recipient from point of origin to point of destination where the recipient is placed in the charge of the receiving individual, including physical assistance and/or guidance to the recipient when necessary. To be considered a specialty individual carrier for purposes of reimbursement from the cabinet, the carrier must be recognized by the cabinet as a specialty individual carrier with approval given by the cabinet for reimbursement at specialty individual carrier rates. The cabinet may require the submission of documentation designed to show that the vendor is capable of providing specialty individual carrier service in an adequate and safe manner.

(2) Specialty individual carriers shall be reimbursed at the lesser of the following rates:

- (a) The actual charge for the service; or
- (b) The usual and customary charge for that service by the carrier, as shown in the schedule of usual and customary charges submitted by the carrier to the cabinet; or
- (c) The program maximum established for the service.

(3) Program maximums are:

(a) Non-ambulatory, wheelchair patients; for transportation within a distance of ten (10) miles or less, the upper limit is fifteen (15) dollars for the first patient plus seven (7) dollars and fifty (50) cents for each additional non-ambulatory patient transported on the same trip, for each time a patient is transported to or transported from the medical service site. To this base rate may be added seventy-five (75) cents per mile per patient for miles the patient(s) is transported above ten (10) (one (1) way), and toll charges actually incurred.

(b) Ambulatory, disoriented patients; for transportation within a distance of ten (10) miles or less, the upper limit is six (6) dollars per patient for each time a patient(s) is transported to or transported from the medical service site. To this base rate may be added seventy-five (75) cents per mile per patient for miles the patient is transported above ten (10) (one (1) way), and toll charges actually incurred.

(c) For both paragraphs (a) and (b) of this subsection, mileage must be computed by the most direct accessible route from point of pickup to point of delivery, and reimbursement for mileage

is allowed only for those miles the recipient is actually transported in excess of ten (10). Empty vehicle miles are not included when computing allowable reimbursement for mileage.

(4) Reimbursement is made at specialty individual carrier rates for the following types of recipients only:

(a) Non-ambulatory recipients who need to be transported by wheelchair, but not including recipients who need to be transported as a stretcher patient; and

(b) Ambulatory but disoriented recipients, defined as persons confused, especially with respect to time, place and identity of persons and/or objects. The extent of disorientation must be such as to preclude the recipient from safely utilizing, unaccompanied, alternate methods of transportation.

(5) The specialty carrier must obtain a statement from the recipient's physician (or, if the recipient is in a skilled nursing or intermediate care facility, from the director of nursing, charge nurse, or medical director in lieu of physician) to verify that transportation by the specialty carrier is medically necessary due to the recipient's non-ambulatory or disoriented condition. Claims for payment which are submitted without the required statement of verification will not be paid.

Section 6. Specially authorized transportation services provided by ambulance services may be paid for at a rate of forty (40) dollars per one (1) way trip, which includes all mileage costs for the first ten (10) miles, and a mileage allowance of seventy-five (75) cents per mile above the first ten (10) miles, unless otherwise authorized; specially authorized transportation services provided by specialty carriers, or as otherwise authorized in unforeseen circumstances, may be paid for at a rate adequate to secure the necessary service; in no event, however, shall the amount allowed exceed the usual and customary charge of the provider.

Section 7. Use of Flat Rates. When a recipient chooses to use a medical provider outside the medical service area (i.e., the medical service is available within the medical service area and the recipient has not been appropriately referred to a medical provider outside the medical service area), transportation payment shall not exceed the lesser of six (6) dollars per trip, one (1) way (or twelve (12) dollars for a round trip), or the usual fee for the transportation provider computed in the usual manner.

Section 8. Limitations. Any reimbursement for medical transportation is contingent upon the recipient receiving the appropriate pre- or post-authorization for medical transportation as required by the cabinet.

[Section 9. Implementation Date. The provisions of this regulation as amended shall be effective on October 1, 1984.]

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21,



1985 at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, KY 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: 14 mental health centers are impacted in a technical way

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical amendment to avoid the possibility of mental health centers engaging in the practice of duplicate billing. No actual program impact is anticipated.

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

#### 904 KAR 3:020. Eligibility requirements.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and non-financial criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Non-financial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) non-farm income poverty guidelines.

Section 2. Countable Income. All income from any source shall be counted, except income specifically excluded in Section 3 of this regulation, including but not limited to:

(1) Wages earned by a household member, including all wages received by a striker the month prior to the month of the strike, or the month of application, in accordance with 7 CFR Part 273.1(g).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements.

(4) Payments under Title I (Volunteers in Service to America, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 shall be considered earned income unless specifically excluded in 7 CFR Part 273.9(c)(10)(iii).

(5) The earned or unearned income of excluded household members as set forth in 904 KAR 3:035, Section 5(3).

(6) Assistance payments from federal or federally aided public assistance such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs, or other assistance programs based on need.

(7) Annuities; pensions; retirement; veteran's or disability benefits; worker's or unemployment compensation; strike pay; old-age, survivors, or social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

(8) Wages earned by a household member which are garnisheed or diverted by an employer and paid to a third party for a household expense.

(9) Support or alimony payments made directly to the household from nonhousehold members and/or any portion of such payments returned to the household by the cabinet.

(10) Such portion of scholarships, educational grants, fellowships, deferred payment loans for education, veterans educational benefits and the like which are not excludable under Section 3(6) of this regulation.

(11) Payments from government sponsored programs, dividends, interest, royalties, and

all other direct money payments from any source which can be construed to be a gain or benefit.

(12) Monies withdrawn or dividends which are or could be received from a trust fund considered to be excludable under 7 CFR Part 273.8(e)(8) by a household, unless otherwise exempt under the provisions set forth in 7 CFR Part 273.9(c).

(13) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien in accordance with 7 CFR Part 273.11(h).

(14) Assistance monies from another program, as specified in 7 CFR 273.11(j), which are withheld for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements. These withheld monies shall be considered as income in accordance with 7 CFR 273.11(j).

Section 3. Income Exclusions. The following payments shall not be considered as income:

(1) Money withheld from an assistance payment, earned income or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided the overpayment was not excludable in accordance with 7 CFR Part 273.9(c). However, monies withheld, as specified in Section 2, subsection (14) of this regulation shall not be excluded.

(2) Child support payments received by AFDC recipients which must be transferred to the division administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility. However, any portion of such monies returned to the household by the cabinet shall not be excluded.

(3) Any gain or benefit which is not in the form of money payable directly to the household.

(4) Money payments that are not payable directly to a household, but are paid to a third party for a household expense are excludable as a vendor payment.

(5) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty (30) dollars in a quarter.

(6) Educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped.

(7) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(8) Reimbursements for past or future expenses to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household.

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member.

(10) The earned income of children who are members of the household, who are students at least half-time and who have not attained their

eighteenth birthday.

(11) Money received in the form of a non-recurring lump-sum payment.

(12) The cost of producing self-employment income.

(13) Any income specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program.

(14) Any energy assistance payments made under federal laws or certified as excludable energy payments by FNS.

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program is limited to those households whose incomes fall at or below the applicable standards as established by FNS and which are set forth below:

(1) Households which contain a member who is elderly or disabled as defined in 904 KAR 3:010, Section 1(10) shall have their net income compared to 100 percent of the federal income poverty guidelines.

(2) All other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the federal income poverty guidelines and their net income compared to 100 percent of the federal income poverty guidelines.

Section 5. Income Deductions. The following shall be allowable income deductions:

(1) A standard deduction per household per month. This standard shall be periodically adjusted by FNS to reflect changes in the cost of living for a prior period of time as determined by FNS.

(2) Eighteen (18) percent of gross earned income.

(3) Payments for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept or continue employment or attend training or pursue education preparatory to employment. This deduction shall not exceed the excess shelter/child care maximum established by FNS.

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made. The shelter deduction alone or in combination with the dependent care deduction in subsection (3) of this section shall not exceed the excess shelter/child care maximum established by FNS, except that households containing an elderly or disabled member shall not be subject to said maximum in regards to the shelter deduction. The excess shelter/child care maximum shall be adjusted periodically by FNS to reflect changes in the cost of living for a prior period of time. Allowable monthly shelter expenses shall be those expenses outlined in 7 CFR Part 273.9(d)(5). The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which incur heating/cooling (by air conditioning units only) costs separate and apart from their rent or mortgage payments in accordance with 7 CFR Part 273.9(d)(6). If the household is not entitled to the utility standard or does not choose to use the utility standard, it may claim actual utility expenses for any utility which it does pay separately. The standard utility allowance shall be adjusted at least annually to

reflect changes in the cost of utilities.

(5) Allowable medical expenses, excluding special diets, in excess of thirty-five (35) dollars per month incurred by any household member who meets the definition of elderly or disabled, as set forth in 7 CFR Part 271.2, are those meeting the criteria set forth in 7 CFR Part 273.9(d)(3) including, but not limited to:

- (a) Medical and dental care;
- (b) Hospitalization or outpatient treatment and nursing care;
- (c) Medication and medical supplies;
- (d) Health and hospitalization premiums; and
- (e) Dentures, hearing aids, eyeglasses and prosthetics.

Section 6. Resources. Uniform national resource standards of eligibility shall be utilized. Eligibility shall be denied or terminated if the total value of a household's liquid and non-liquid resources, not exempt under Section 7 of this regulation and in accordance with 7 CFR Part 273.8, exceed:

- (1) \$3000: for all households with two (2) or more members, when at least one (1) member is sixty (60) years or older; or
- (2) \$1500: for all other households.
- (3) Households in which all members receive AFDC benefits and whose gross income does not exceed 130 percent of the federal income poverty guidelines shall be considered as having met the food stamp resource requirement.

Section 7. Exempt Resources. The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Household goods, personal effects including one (1) burial plot per household member, the cash value of life insurance policies and pension funds (except that Keogh plans which involve no contractual relationship with individuals who are not household members and Individual Retirement Accounts shall not be exempt), and prepaid burial plans if a contractual agreement for repayment must be signed in order to withdraw any funds.

(3) Licensed/unlicensed vehicles as specified in 7 CFR Part 273.8.

(4) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis.

(5) Property which is essential to the employment or self-employment of a household member, in accordance with 7 CFR Part 273.8(e)(5).

(6) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended.

(8) Resources whose cash value is not accessible to the household.

(9) Resources which have been prorated as income.

(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by express provision of federal statute.

Section 8. Transfer of Resources. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer in accordance with 7 CFR 273.8(i).

Section 9. Non-financial Criteria. Non-financial eligibility standards apply equally to all households and consist of:

(1) Residency. A household must live in the county in which they make application;

(2) Identity. Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;

(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR Part 273.4. Individuals whose status is questionable shall be ineligible to participate until such status has been verified;

(4) Household size. Size of household will be verified through readily available documentary evidence or through a collateral contract; and

(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half-time in an institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR Part 273.5.

(6) Mandatory monthly reporting (MMR). Households shall be required to file monthly reports in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS as a condition of eligibility, unless otherwise exempted by the appropriate federal agency.

(7) Social security number (SSN). Households applying for or participating in the Food Stamp Program must comply with SSN requirements by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(8) Work registration. All household members between the ages of eighteen (18) and sixty (60), except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7. Strikers whose households are eligible in accordance with 904 KAR 3:035, Section 5(9), shall be subject to the work registration requirements unless exempt for reasons other than employment at the time of application.

(9) Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

Section 10. Provisions contained in this regulation shall become effective April 1, 1985.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 21, 1985

FILED WITH LRC: January 24, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Food Stamp households which receive assistance from other programs and which have a part of these monies withheld to repay an overpayment due the program.

(a) Direct and indirect costs or savings to those affected: Households in the situations described above will receive less food stamp benefits than under current rules.

1. First year: Unknown

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs (note any effects upon competition): Unknown

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body: The agency must determine if the reason for an overpayment, which results in withheld monies, is the result of intentional noncompliance on the part of the applicant/client.

(a) Direct and indirect costs or savings: Unknown

1. First year: Unknown

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: Unknown

(b) Reporting and paperwork requirements: Additional documentation will be required but change in actual number of forms, etc. is not significant.

(3) Assessment of anticipated effect on state and local revenues: No significant impact on state or local revenue is anticipated.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal regulations did not allow for alternatives, therefore, none were considered.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Federal regulations require that these provisions be applied uniformly throughout the state, therefore, tiering was not necessary/possible.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

904 KAR 3:035. Certification process.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the certification process used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility and Benefit Levels. Eligibility and benefit levels shall be determined by the cabinet by considering the households circumstances for the entire month(s) for which each household is certified. Procedures specified in 7 CFR Part[s] 273.3, 273.10(a), 273.10(b), 273.10(c), 273.10(d), 273.10(e) and, as appropriate, 273.21(e) and 273.21(g),] and any waivers thereto approved by the federal Food and Nutrition Service (FNS) shall be used to determine eligibility and calculate net income and benefit levels. The criteria set forth in this section shall be applicable to all households. In addition, certain households require special/additional certification procedures as specified in Section 5 of this regulation.

Section 2. Certification Periods. The cabinet shall establish a definite period of time within which a household shall be eligible to receive benefits. At the expiration of each certification period entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and verification. Certification periods for non-public assistance households shall be in accordance with those specified in 7 CFR Parts 273.2(k)(1)(iii)(B), 273.10(f)(3)(4)(5)(6), and 273.21(a)(3). Households in which all members are included in a PA grant shall be certified for a period of time which ensures, to the extent possible, that the recertification date and the PA reinvestigation date coincide.

Section 3. Certification Notices to Households. The cabinet shall provide applicants with one (1) of the following written notices as soon as a determination is made, but no later than thirty (30) days after the date of the initial application:

(1) Notice of eligibility.

(2) Notice of denial.

(3) Notice of pending status.

Section 4. Application for Recertification. The cabinet shall process applications for recertification in accordance with 7 CFR Part 273.10(g)(2), Part 273.14 and Part 273.21(q), unless specifically waived by FNS.

Section 5. Certification Process for Specific Households. The following households have circumstances that are substantially different from other households and therefore require special/additional certification procedures:

(1) Households with self-employed members shall have their cases processed in accordance with 7 CFR Part 273.11(a).

(2) Households with boarders shall have their case processed in accordance with 7 CFR Part 273.11(b).

(3) Households with excluded household members which have been disqualified from program participation due to intentional program violation, failure to provide a Social Security number, because they are ineligible aliens, or because they have not verified their citizenship or alien status prior to certification, shall have their case processed in accordance with 7 CFR Part 273.11(c).

(4) Households with non-household members shall be processed in accordance with 7 CFR Part 273.11(d).

(5) Residents of drug/alcoholic treatment and rehabilitation programs in a private, non-profit organization shall have their case processed in accordance with 7 CFR Part 273.11(e).

(6) Residents of group living arrangements who are blind or disabled who receive benefits under Title II or Title XVI of the Social Security Act shall have their case processed in accordance with 7 CFR Part 273.11(f), which allows residents to apply in their own behalf or through the use of an authorized/certified facility's authorized representative.

(7) Residents of shelters for battered women and children shall have their case processed in accordance with 7 CFR 273.11(g).

(8) Households consisting only of Supplemental Security Income (SSI) applicants or recipients shall have their case processed in accordance with 7 CFR 273.2(k).

(9) Households with a member who is on strike shall have their case processed in accordance with 7 CFR 273.1(g).

(10) Households requesting replacement allotments shall be processed in accordance with 7 CFR 273.11(i)[h], 274.2(h) and 274.3(c).

(11) Student households or households containing a member(s) who is a student shall have their case processed in accordance with 7 CFR Part 273.5.

(12) Households containing a sponsored alien(s) shall have their case processed in accordance with 7 CFR Part 273.11(h).

(13) Households which are required to comply with mandatory monthly reporting criteria shall have their case processed and shall comply with reporting requirements in accordance with 7 CFR Part 273.21 and waivers thereto approved by FNS, with selected options as follows:

(a) A two (2) month system shall be used whereby the issuance month is the second month following its corresponding budget month. This system includes two (2) or three (3) beginning months, the month of application and/or month of approval and the following month. Eligibility and benefit calculation shall be determined prospectively for the beginning months.

(b) For households reporting monthly, ongoing eligibility shall be determined by considering all factors of eligibility prospectively. Benefits shall be determined retrospectively. However, any factor which causes ineligibility

prospectively, for a period longer than one (1) month, shall be acted upon immediately. For households reporting less frequently than monthly, ongoing eligibility and benefits shall be determined prospectively.

(c) The amount of the PA grant which was issued in the base month shall be considered in the corresponding budget month.

(d) Counties shall terminate or suspend cases in accordance with 7 CFR Part 273.21(m) and 273.21(n).

(e) The recertification form shall serve as the report required for that month in which a household must be recertified.

(f) All households specified in 7 CFR Part 273.21(b)(2), as well as any others exempted by the appropriate federal agency, shall be excluded from mandatory monthly reporting.

Section 6. Reporting Changes. Certified households are required to report those changes in household circumstances specified in 7 CFR Part 273.12(a) within ten (10) days of the date the change becomes known to the household. An applying household shall report all changes related to its food stamp eligibility and benefits at the certification interview, or for changes occurring after the interview but prior to receipt of the notice of eligibility, within ten (10) days of the date of the notice. The cabinet shall act on reported changes in accordance with 7 CFR Part 273.12(c). The cabinet shall comply with other change reporting provisions outlined in 7 CFR Part 273.12. Households which are required to report monthly, shall not be required to submit any reports of changes other than the reports required under Section 5(13) of this regulation.

Section 7. Provisions contained in this regulation shall become effective January 16, 1985 [July 1, 1984].

E. AUSTIN, JR., Secretary

JACK F. WADDELL, Commissioner

APPROVED BY AGENCY: February 4, 1985

FILED WITH LRC: February 5, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: The policy change in this regulation will affect only those residents of drug or alcohol treatment programs in public centers.

(a) Direct and indirect costs or savings to those affected: Residents in publicly run centers are no longer eligible.

1. First year: Unknown

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: Minimal

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Insignificant

(3) Assessment of anticipated effect on state and local revenues: No significant impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal regulation did not allow for alternatives; therefore none were considered.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Federal regulations require that these provisions be applied uniformly throughout the state, therefore tiering was not necessary/possible.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management & Development**  
**(Proposed Amendment)**

904 KAR 3:050. Additional provisions.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth additional provisions used by the cabinet in the administration of the Food Stamp Program.

Section 1. Civil Rights Compliance. The cabinet insures that no applicant or participant shall be discriminated against in any aspect of program administration for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs.

Section 2. Restoration of Lost Benefits. Benefits shall be restored to households as specified in 7 CFR Part 273.17, when such household has lost benefits due to an administrative error.

Section 3. Program Informational Activities. Low-income or disadvantaged households shall be informed of the availability of the program and program rights and responsibilities through program informational activities as required by

7 CFR Part 272.5[6].

Section 4. Claims Against Households. The cabinet shall establish a claim, in accordance with policies in effect at the time the overissuance occurred, against households that receive more food stamp benefits than they are entitled to receive. Claims shall be determined and processed in accordance with 7 CFR Part [273.18, 273.11(h)(8) and] 272.1(g)(58)(ii), 273.11(h)(8), 273.16, and 273.18 and shall be classified as:

(1) Inadvertant household error claims. Overissuance was due to a misunderstanding or unintended error on the part of the household.

(2) Administrative error claims. Overissuance was due to agency action or failure to take action.

(3) Intentional program violation claims. Overissuance was due to an act of intentional program violation as defined in 7 CFR 273.16(c) and set forth in 904 KAR 3:060, Section 1.

Section 5. Disclosure of Information. Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted to the following individuals:

(1) Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, or with other federal assistance programs or federally aided state programs which provide assistance, on a means-tested basis, to low income households; [assistance programs such as Titles IV-A (AFDC), XIX (Medicaid), or XVI (SSI).]

(2) Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

(3) Local, state or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include:

(a) The identity of the person requesting the information and his/her authority to do so;

(b) The nature of the violation being investigated; and

(c) The identity of the person on whom the information is requested.

Section 6. General Program Information. Regulations, plans of operation, state manuals, and federal procedures which affect the public shall be maintained in the central and local office as well as in FNS national and regional offices for examination by members of the public on regular workdays during regular office hours. Copies of regulations, plans of operation, state manuals and federal procedures may be obtained from FNS or the cabinet.

Section 7 [6]. Retention of Records. The cabinet shall retain all program records in an orderly fashion, for audit and review purposes, for a period of three (3) years from the month of origin of each record. The cabinet shall retain fiscal records and accountable documents for three (3) years from the date of fiscal or administrative closure.

Section 8 [7]. Disaster Certification. The cabinet shall distribute emergency coupon

allotments to households within a food stamp county determined to be a disaster area only when so authorized by the Food and Nutrition Service.

(1) In accordance with the Disaster Relief Act, emergency food stamp assistance may be authorized by the Food and Nutrition Service of the United States Department of Agriculture as a result of a major disaster which is determined as such by the President of the United States.

(2) In accordance with the Food Stamp Act, emergency food stamp assistance may be authorized by the Food and Nutrition Service as a result of a lesser disaster, even if the affected area has not been declared a major disaster, if the emergency has resulted either from a natural or human occurrence which disrupted the commercial channels of food distribution and the Food Stamp Program is operational.

Section 2 [8]. Provisions contained in this regulation shall become effective February 1, 1985 [April 1, 1983].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 21, 1985

FILED WITH LRC: January 24, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: This policy will apply to all Food Stamp applicants/recipients, however, it will not directly affect them.

(a) Direct and indirect costs or savings to those affected: None

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: Minimal

1. First year: Unknown

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Not significant

(3) Assessment of anticipated effect on state and local revenues: No significant impact on state or local revenues is anticipated.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal regulation did not allow for alternatives; therefore, none were considered.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

#### Tiering:

Was tiering applied? No. Federal regulations require that these provisions be applied uniformly throughout the state, therefore tiering was not necessary/possible.

## PROPOSED REGULATIONS RECEIVED THROUGH FEBRUARY 15

### STATE BOARD OF AGRICULTURE Kentucky Department of Agriculture

302 KAR 20:180. Restrictions equine viral arteritis.

RELATES TO: KRS 257.020, 257.030

PURSUANT TO: KRS 257.030

NECESSITY AND FUNCTION: To protect the thoroughbred industry from the spread of Equine Viral Arteritis within the borders of the Commonwealth of Kentucky and to control the disease in the Commonwealth.

Section 1. Definitions. As used in this regulation unless the context clearly requires otherwise:

(1) "EVA" means Equine Viral Arteritis a communicable disease in livestock;

(2) "Vaccinated" or "Vaccination" means vaccinated with equine modified live virus vaccine;

(3) "Sero Positive" horse means the horse has reacted positive to a blood test for EVA;

(4) "Sero Negative" horse means the horse has

reacted negatively to a blood test for EVA;

(5) "Book or Booking" means the contracting of mares to breed to stallions and/or the scheduling of mares to breed to stallions;

(6) "Chief Livestock Sanitary Official" means the State Veterinarian of the Commonwealth of Kentucky;

(7) "Cover" means the act of breeding a stallion to a mare;

(8) "Shedder or Shedding" means equine that has the EVA organism in the body that is capable of being transmitted to other animals; and

(9) "Identified or Identification" of equine means identification by breed, color, age, sex, tattoo and markings.

Section 2. Sero Positive Stallions. Sero positive stallions shall be handled in the following manner:

(1) All thoroughbred stallions known to be shedding EVA shall not be permitted to breed until the Chief Livestock Sanitary Official determines that the stallion does not pose a threat of EVA spread. In determining whether a shedder poses a threat of disease spread the



Chief Livestock Sanitary Official shall consider whether the farm where the shedder is located can comply in all respects with the restrictions for breeding shedders found in subsection (1)(b) of this section.

(a) Shedding stallions shall be housed and handled in a facility apart from nonshedding stallions;

(b) When the Chief Livestock Sanitary Official determines that a shedding stallion can breed the following control measures shall apply:

1. Owners and/or agents of mares booking or seeking to book to known shedding stallions shall be notified in writing by the owner and/or agent of the stallion as to the classification of the stallion as a shedder at the time of booking and copy of written notification sent to the Chief Livestock Sanitary Official;

2. Shedding stallions shall be housed, handled and bred in a facility isolated from nonshedding stallions;

3. Shedding stallions shall be bred only to mares that have been vaccinated against EVA at least twenty-one (21) days prior to breeding or to mares that are sero positive from prior vaccination or exposure;

4. All mares bred to shedding stallions shall be returned to the farm of origin and isolated from all other equine for the remainder of the breeding season or shall be returned only to a premise where all animals on that premise are vaccinated a minimum of twenty-one (21) days prior to association with these mares; and

5. Mares bred to shedding stallions shall be returned to the farm of origin in a separate van or other mode of transportation. Upon returning to the farm of origin the van or other mode of transportation used to transport said mare shall be immediately cleaned and disinfected.

(2) Sero positive stallions disclosed in 1985 that were not tested sero negative prior to vaccination and those stallions known to have been associated with the transmission of EVA shall be handled as follows:

(a) It shall be the responsibility of the Chief Livestock Sanitary Official in cooperation with the stallion owner/manager to determine that such a stallion is not shedding EVA virus prior to the stallion being permitted to breed other than to test mares;

(b) The procedure for determining that a stallion is not a shedder is as follows:

1. Re-bleed the stallion and if confirmed as sero positive, breed the stallion a minimum of two (2) to four (4) days to each of two (2) sero negative test mares. These test mares shall be isolated from all other equine and blood tested on day fourteen (14) and twenty-eight (28) following the last cover.

2. If neither of the test mares shows symptoms of EVA and if each test mare remains sero negative following the twenty-eight (28) day test, the stallion shall be considered a nonshedder and allowed to breed.

a. All mares bred to these stallions must have a prebreeding blood test for EVA; and

b. Any sero negative mare subsequently bred to this stallion shall be blood tested at seven (7), fourteen (14), and twenty-eight (28) days post breeding.

3. If any test mare shows symptoms of the disease and/or if any mare sero converts the stallion shall be considered a shedder and shall be handled in accordance with subsection (1) of this section.

(c) Owners and/or agents of mares booking or seeking to book to sero positive stallions classified under subsection (2) of this section shall be notified in writing by the owner and/or agent of the stallion as to the classification of the stallion at the time of booking and a copy of the written notification sent to the Chief Livestock Sanitary Official;

(3) Sero positive, vaccinated stallions never associated with the transmission of EVA must have been sero negative prior to vaccination and a statement presented by the owner and/or agent of the stallion and his veterinarian that the stallion had no known contact with EVA infected and/or exposed equine prior to vaccination nor during the twenty-one (21) days post vaccination.

Section 3. Stallions becoming infected during the breeding season shall immediately cease breeding and the Chief Livestock Sanitary Official immediately notified. All owners and/or agents having mares booked to that stallion or previously bred to that stallion shall be immediately notified in writing by the owner and/or agent of the stallion and a copy of written notification set to the Chief Livestock Sanitary Official. The infected stallion shall be classified as a shedder and shall be handled accordingly. The stallion may be subsequently determined by the Chief Livestock Sanitary Official to be a nonshedder by test breeding in accordance with Section 2(2)(b) of this regulation.

Section 4. Equine vaccinated against EVA. Equine vaccinated against EVA must have blood drawn for EVA testing prior to vaccination. Vaccination must be approved by the Chief Livestock Sanitary Official prior to vaccination and must be reported to the Chief Livestock Sanitary Official within seven (7) days of the vaccination. Stallions vaccinated shall not be exposed to infected animals nor used for breeding for twenty-eight (28) days following vaccination. All equine vaccinated against EVA shall be properly identified.

Section 5. Mares that were clinically ill. Mares that were clinically ill with EVA or mares that were bred to shedding stallions in 1984 or any mare suspected of having EVA shall be blood tested. In 1985 this shall include but be limited to all mares bred after April 15, 1984 at Airdrie Stud Breeding Shed #2, Domino Stud after May 24, 1984 and Warnerton Farm after May 7, 1984. If found to be sero positive without proof of being sero negative prior to being vaccinated they shall be handled as follows:

(1) They shall only be bred to sero positive or vaccinated stallions;

(2) They shall be hauled in a separate van or other mode of transportation and shall be isolated from susceptible animals at the farm where breeding is to take place;

(3) These mares shall be bred last on any given day during the breeding season and the breeding shed shall be cleaned and disinfected after breeding;

(4) The van or other mode of transportation hauling such mare shall be cleaned and disinfected immediately upon returning to the farm of origin; and

(5) Mares in foal from 1984 breeding shall be isolated one month prior to foaling and they shall remain in isolation until released by the

Chief Livestock Sanitary Official. At foaling, or following abortion, appropriate samples should be taken from the mare and foal to evaluate the possibility of their shedding EVA virus.

Section 6. The Chief Livestock Sanitary Official may take such steps in addition to those outlined in this regulation as are reasonably necessary for the prevention and control of EVA in the equine population which shall include but not be limited to the isolation of all thoroughbreds and equine associated with them, thought to present the potential for EVA spread in the Commonwealth of Kentucky.

Section 7. All thoroughbred stallions and teaser shall be blood tested for EVA prior to the 1985 breeding season.

Section 8. Nurse mares shall be sero negative and/or properly vaccinated in accordance with Section 4 of this regulation and/or isolated on the thoroughbred farm.

Section 9. All newly acquired teasers shall be sero negative and/or properly vaccinated in accordance with Section 4 of this regulation.

Section 10. If any test mare after test breeding shows symptoms of the disease and/or if any mare sero converts the test mare shall be isolated from all other equine for the remainder of the breeding season.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: January 30, 1985

FILED WITH LRC: January 30, 1985 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 22, 1985 at 3 p.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interest in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Robert I. Hail

(1) Type and number of entities affected: Thoroughbred industry.

(a) Direct and indirect costs or savings to those affected:

1. First year: NA

2. Continuing costs or savings: NA

3. Additional factors increasing or decreasing costs (note any effects upon competition): NA

(b) Reporting and paperwork requirements: Reporting of vaccination and sero positive or shedding status required.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: NA

2. Continuing costs or savings: NA

3. Additional factors increasing or decreasing costs: NA

(b) Reporting and paperwork requirements: Collating vaccination reports and status reports.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Most feasible

method available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: NA

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: NA

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Will apply evenly across the thoroughbred industry.

#### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Surface Mining Reclamation and Enforcement

#### 405 KAR 7:070. Certification of blasters.

RELATES TO: KRS 350.430, 351.380

PURSUANT TO: KRS Chapter 13A, 350.028, 350.050, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 requires the cabinet to promulgate regulations to implement the Surface Mining Control and Reclamation Act of 1977 (PL 95-87). PL 95-87 and federal regulations promulgated pursuant thereto require the establishment of a blaster training, examination and certification program. This regulation establishes a blaster certification program for blasters using explosives in surface coal mining and reclamation operations including requirements for training, examinations, certification, renewal of certification, and for suspension and revocation of certification.

Section 1. Blasting operations to be conducted under the direction of a certified blaster. (1) "Blaster" means a person who is directly responsible for the use of explosives in surface coal mining and reclamation operations.

(2) On and after twelve (12) months from the approval of Kentucky's blaster certification program by OSM, each permittee or person conducting coal exploration operations shall have all surface blasting operations incident to surface coal mining and reclamation operations and coal exploration operations conducted under the direction of a blaster certified in accordance with this regulation. Notwithstanding the exemption in 405 KAR 7:030, Section 1, this section shall also apply to permittees of operations with an affected area of two (2) acres or less.

Section 2. Requirements for Certification. (1) A person desiring to become certified under this regulation shall file an application upon a form furnished by the cabinet which shall contain such information as the cabinet deems necessary for the purposes of this regulation. The application shall be accompanied by a fee of twenty-five (25) dollars.

(2) The applicant shall demonstrate that he or she has received training in the technical aspects of blasting operations and state and federal laws and regulations governing the storage, transportation and use of explosives by completing training courses approved by the cabinet. These courses shall provide training and discuss practical applications of the topics

listed in subsection (5) of this section.

(3) The applicant shall demonstrate that he or she currently holds a valid Kentucky Blaster's License issued by the Kentucky Department of Mines and Minerals.

(4) The application shall include at least two (2) letters of reference on forms provided by the cabinet. These references shall be from either former or present employers in blasting operations or licensed blasters who have worked with the applicant in blasting operations. The letters of reference shall indicate that the applicant has exhibited a pattern of conduct consistent with the acceptance of responsibility for blasting operations.

(5) The applicant shall pass a written examination on the technical aspects of blasting and state and federal laws governing the storage, use, and transportation of explosives. The exam shall cover, at a minimum, the following topics:

(a) Explosives, including:

1. Selection of the type of explosive to be used;

2. Determination of the properties of explosives which will produce desired results at an acceptable level of risk; and

3. Handling, transportation, and storage.

(b) Blast designs, including:

1. Geologic and topographic considerations;

2. Design of a blast hole, with critical dimensions;

3. Pattern design, field layout, and timing of blast holes; and

4. Field applications.

(c) Loading blastholes, including priming and boosting.

(d) Initiation systems and blasting machines.

(e) Blasting vibrations, airblast, and flyrock, including:

1. Monitoring techniques; and

2. Methods to control adverse effects.

(f) Secondary blasting applications.

(g) Current federal and state rules applicable to the use of explosives.

(h) Blast records.

(i) Schedules.

(j) Preblasting surveys, including:

1. Availability;

2. Coverage; and

3. Use of in-blast design.

(k) Blast-plan requirements.

(l) Certification and training.

(m) Signs, warning signals, and site control.

(n) Unpredictable hazards, including:

1. Lightning;

2. Stray currents;

3. Radio waves; and

4. Misfires.

(6) Any person who fails the exam may retake the examination after thirty (30) days. Any person failing the exam twice may not retake the exam until after completing an approved training course and filing a new application.

Section 3. Issuance of Certification. The cabinet shall issue a blaster certificate to any applicant who meets the requirements of Section 2 of this regulation except that the cabinet shall deny certification if the applicant has exhibited a pattern of conduct inconsistent with the acceptance of responsibility for blasting operations. The certificate shall be valid for three (3) years. Any person aggrieved by a determination under this section may request a

formal hearing in accordance with 405 KAR 7:090, Section 5.

Section 4. Renewal of Certification. (1) A certified blaster may apply for renewal of his or her certificate by submitting an application on a form furnished by the cabinet at least sixty (60) days prior to the expiration of the certificate. The application shall be accompanied by a fee of ten (10) dollars.

(2) The applicant shall:

(a) Demonstrate that he or she has worked in blasting operations, in a manner that demonstrates the blaster's competency, during at least one and one-half (1 1/2) years of the three (3) years prior to the expiration of the current certificate; or

(b) Retake and pass the written examination specified in Section 2 of this regulation and submit a re-examination fee of fifteen (15) dollars.

(3) The applicant shall demonstrate that he or she currently holds a valid Kentucky Blaster's License issued by the Kentucky Department of Mines and Minerals.

(4) The cabinet shall renew the certificate of a certified blaster who has met the requirements of this section, except that the cabinet shall deny renewal of certification if the applicant has exhibited a pattern of conduct inconsistent with the acceptance of responsibility for blasting operations. The renewed certificate shall be valid for three (3) years.

(5) A certified blaster who fails to renew his certificate within six (6) months after the expiration date of his last valid certificate shall be required to reapply under Section 2 of this regulation. Certified blasters not falling in this category may have their certificates renewed by applying for renewal under this section.

(6) Any person aggrieved by a determination under this section may request a formal hearing in accordance with 405 KAR 7:090, Section 5.

Section 5. Suspension and Revocation. (1) An authorized representative of the cabinet shall issue a blaster suspension order to the certified blaster, describing the violation and temporarily suspending the certificate until a hearing can be conducted, when any violation listed in subsection (7) of this section is likely to threaten public safety or the environment. The authorized representative may order remedial action where applicable. Temporary relief from a blaster suspension order may be granted in accordance with the procedures and criteria established in 405 KAR 7:090, Section 8, for orders for cessation and immediate compliance.

(2) For violations listed in subsection (7) of this section which are not likely to threaten public safety or the environment, an authorized representative of the cabinet shall issue a blaster citation to the certified blaster describing the violation. The authorized representative may order remedial action where applicable.

(3) Service of blaster suspension orders and blaster citations shall be made upon the blaster promptly after issuance. Such orders and citations shall be served by hand or by certified mail, return receipt requested, or by registered mail to the blaster. In addition, the

notice shall be served by hand to the individual who, based upon reasonable inquiry by the authorized representative, appears to be in charge at the site of the surface coal mining and reclamation operation or coal exploration operation referred to in the order or citation. Service, whether by hand or by mail, shall be complete upon tender of the order or citation and shall not be deemed incomplete because of refusal to accept. Service by mail shall be addressed to the permanent address shown on the blaster certificate application; or if no address is shown on the application, to such other address as is known to the department. If no person is present at the site of the operation, service by mail shall by itself be sufficient notice. A copy shall also be mailed to the permittee at the address shown on the permit application and to the Department of Mines and Minerals.

(4) An authorized representative of the cabinet may by written notice modify a blaster suspension order or blaster citation for good cause.

(5) A blaster suspension order or blaster citation determined to have been issued in error may be vacated by the Director of the Division of Field Services upon the recommendation of the regional administrator and the authorized representative of the cabinet who issued the order or citation.

(6) Upon the issuance of a blaster suspension order or a blaster citation, the cabinet shall provide written notice and schedule a formal hearing in accordance with 405 KAR 7:090, Section 5, to determine whether the certification should be further suspended or revoked. History of the competence of the certified blaster as evidenced by previously issued blaster suspension orders, blaster citations or actions taken as a result of previous hearing shall be considered by the cabinet in making the decision to suspend or revoke.

(7) The cabinet may, and upon a finding of willful conduct shall, suspend the certification for a definite or indefinite period, or revoke the certification of a blaster during the term of the certification or take other necessary action if the certified blaster:

(a) Fails to comply with any order of the cabinet or its authorized representative.

(b) Exhibits impairment of performance due to use of alcohol, narcotics or other dangerous drugs.

(c) Violates any provision of the state or federal explosives laws or regulations.

(d) Provides false information or a misrepresentation to obtain certification.

(e) Fails to comply with the conditions of certification specified in Section 7 of this regulation.

(8) Upon notice of a suspension or revocation, the certified blaster shall immediately surrender to the cabinet the suspended or revoked certificate.

(9) Notwithstanding Section 11 of this regulation, this section will become effective on and after twelve (12) months from the approval of Kentucky's blaster certification program by OSM.

Section 6. Protection of Certification. Certified blasters shall take every reasonable

precaution to protect their certificates from loss, theft, or unauthorized duplication. Any such occurrence shall be reported immediately to the cabinet.

Section 7. Conditions. The following are conditions for maintaining certification:

(1) A Kentucky Blaster License and a Kentucky Blaster Certification shall be carried by the certified blaster during blasting operations. A certified blaster shall immediately exhibit his or her certificate, Kentucky Blaster's License, and one (1) other form of identification to any authorized representative of the cabinet or OSM upon request.

(2) Blasters' certifications shall not be assigned or transferred.

(3) Certified blasters shall not delegate their responsibility to any individual who is not a certified blaster.

(4) Certified blasters shall provide direction and on-the-job training to non-certified persons assigned to a blasting crew or who assist in the use of explosives.

(5) Certified blasters shall hold a valid Kentucky Blaster's License throughout the term of the certification.

Section 8. Reciprocity. For any person who is a certified blaster under OSM's blaster certification program or under any OSM approved state blaster certification program, the submission of satisfactory documentation demonstrating that they are so certified shall be considered an adequate demonstration of compliance with Section 2(2), (4), and (5) of this regulation. However, compliance with Section 2(1) and (3) of this regulation shall occur prior to obtaining certification pursuant to this regulation.

Section 9. Reinstatement. A certified blaster who has had his certificate revoked for the term of certification may reapply for certification after the term of certification has passed. The procedure for reinstatement of certification shall be as set forth in Sections 2 and 3 of this regulation except that in addition to those requirements, the applicant must demonstrate, and the cabinet must find, that the conditions that led to the revocation have been corrected and are not likely to reoccur. When these requirements have been met, the cabinet may issue a blaster certification.

Section 10. Delegation to Department of Mines and Minerals. The cabinet and the Kentucky Department of Mines and Minerals may enter into agreements whereby the Department of Mines and Minerals may administer part or all of this regulation.

Section 11. This regulation shall become effective on the date of approval of Kentucky's blaster certification program by OSM.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: February 15, 1985

FILED WITH LRC: February 15, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 29, 1985 at 10 a.m. in the Capital Plaza Tower auditorium. Written comments may be submitted on or before the scheduled hearing date. However,

if no written notice of intent to attend and testify at the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending and testifying at this hearing shall notify in writing: George Risk, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: George Risk

(1) Type and number of entities affected: All blasters that are directly responsible for the use of explosives at surface coal mining operations must be certified under the provisions of this regulation. At present, there are about 2800 blasters which are licensed by the Department of Mines and Minerals which work at coal mine operations. It is expected that most of these blasters will choose to become certified blasters.

Also affected are 3000 plus coal mines which will be obligated to have blasting operations conducted under the direction of a certified blaster.

(a) Direct and indirect costs or savings to those affected:

1. First year: There will be a twenty-five (25) dollar application fee for each blaster applying for certification. In addition there will be costs incurred by the blaster for training fees. These costs are unknown at this time. The costs will vary depending upon the source of training chosen by the blaster.

2. Continuing costs or savings: Blasters must renew their certificates every three (3) years. Renewal fees are ten (10) dollars.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: A person desiring to become certified must fill out an application form, furnish letters of reference, show that he or she has had proper training courses, and pass a written examination.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$50,000 - cost to administer the program during the first year when most existing blasters will be initially certified.

2. Continuing costs or savings: \$35,000 - cost to administer the program for each succeeding year.

3. Additional factors increasing or decreasing costs: The federal government will provide 50% of the funds necessary to administer the program. The state's 50% share of the costs will be covered by the application and renewal fees paid by the blasters.

(b) Reporting and paperwork requirements: There will be a substantial increase in reporting and paperwork due to the processing of applications, issuing blaster certificates, routine reports to OSM regarding the program, etc.

(3) Assessment of anticipated effect on state and local revenues: State revenues will be insignificantly increased due to the fees described above. However, these fees will be used to offset state expenses in administering the program. Therefore, there will be no net effect on state revenue. There will be no effect

on local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Department considered proposing to OSM that the current Mines and Minerals' licensing program would satisfy the blaster certification requirements under the Surface Mining Law. However, on closer examination it became clear that the current Mines and Minerals' program would not meet the requirements of the federal regulations. Therefore, a separate certification program had to be established by this Department.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This certification program overlaps the Mines and Minerals' Blaster License requirements.

(a) Necessity of proposed regulation if in conflict: See item (4) above.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes. This regulation does not conflict with the Mines and Minerals' license requirements rather it adds additional requirements. These additional requirements were minimized as much as possible. For example, the state must establish experience requirements for certification. The Department chose to make this the same as that required to obtain a license from Mines and Minerals. Furthermore, by Memorandum of Agreement, Mines and Minerals will offer blaster training and administer the examination. This should minimize confusion for the blasters since they will still primarily deal with the agency with which they are familiar.

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Tiering is not applicable because the certification requirements must apply equally to each person who is certified in order to fulfill requirements of the federal regulations.

#### CABINET FOR HUMAN RESOURCES Department for Health Services Division of Maternal and Child Health

902 KAR 4:015. Nurse Midwifery.

RELATES TO: KRS 211.090, 211.180

PURSUANT TO: KRS 194.050, 211.090, 211.180

NECESSITY AND FUNCTION: KRS 211.180 authorizes the Cabinet for Human Resources to regulate the practice of midwifery in Kentucky, including the issuance of permits and the supervision of persons who practice midwifery. This regulation recognizes the advanced education, training and experience of the nurse midwife and the increasing role of the nurse midwife in the delivery of midwifery services in this state. This regulation is readopted by the Cabinet for Human Resources due to the failure of the 1984 General Assembly to confirm Executive Order 83-660, which had transferred the function of regulating nurse midwifery to the Kentucky Board of Nursing.

Section 1. Practice of Nurse Midwifery Defined. The practice of nurse midwifery

embodies the practice of professional nursing and the extension of that practice into the area of care and management of the essentially healthy woman and newborn during the childbearing processes.

Section 2. Practice of Nurse Midwifery Without Permit Prohibited; Exception. No person shall engage or attempt to engage in the practice of nurse midwifery within this state, unless such person holds a valid and effective permit issued as herein provided. Persons licensed by the Kentucky Board of Nursing as an Advanced Registered Nurse Practitioner ("ARNP" - nurse midwife) are exempt from the provisions of this regulation.

Section 3. Nurse Midwife Permits. (1) Applications for permits to practice nurse midwifery may be obtained from the Cabinet for Human Resources, Department for Health Services, Division of Maternal and Child Health, 275 East Main Street, Frankfort, Kentucky 40621.

(2) The Cabinet for Human Resources may issue a nurse midwife permit to any person who is:

(a) Licensed as a registered nurse in accordance with KRS Chapter 314;

(b) A graduate of a program in nurse midwifery approved by the American College of Nurse Midwives and by the the Cabinet for Human Resources; and

(c) Nationally certified by the American College of Nurse Midwives to practice nurse midwifery.

Section 4. Nurse Midwife Practice Standards. All nurse midwives shall comply with the following practice standards and requirements. In such practice, the nurse midwife shall:

(1) Render service to the mother and baby throughout the maternity cycle in such a way as to make a maximum contribution to their safety, health and welfare, including the control and prevention of complicating conditions and enhancing the childbearing experience;

(2) Attempt to maintain the integrity of the mother and her family and encourage their participation in plans for her maternity care;

(3) Not work as an independent practitioner but function within the boundaries of her professional competencies within the framework of medically approved protocols;

(4) Work in collaboration with the physician and other health professionals;

(5) Perform nurse midwifery services only under terms or conditions which permit the exercise of nurse midwifery judgment and skill and encourage a high quality of nurse midwifery care;

(6) Strive continually to improve knowledge and skills and to make available to patients and co-workers the benefits of professional attainments;

(7) Understand, utilize and encourage the contributions of other professional disciplines and community resources to maternity care; and

(8) Demonstrate interest in and accept responsibility for participating in activities designed to improve the health and well-being of the family and the community.

Section 5. Permit Renewals. Nurse midwife permits issued under this regulation shall expire on December 31st every two (2) years but

may, on proper application, be renewed provided the applicant is in full compliance with the provisions of this regulation.

Section 6. Denial, Revocation or Suspension of Permit. The Cabinet for Human Resources may deny, revoke, probate, suspend or refuse to renew the permit of any midwife who has:

(1) Had a license as a registered nurse revoked;

(2) Been convicted of a felony involving moral turpitude;

(3) Become habitually intemperate or is addicted to the use of habit-forming drugs;

(4) Knowingly made or caused to be made or abetted in the making of any false statement in procuring or attempting to procure a permit or in the making of a birth or death certificate;

(5) Developed such physical or mental disabilities that continued practice would be dangerous to the public or patients;

(6) Engaged in dishonorable, unprofessional conduct of a character likely to deceive or defraud the public; or

(7) Violated any of the provisions of this regulation or any other regulation of the Cabinet for Human Resources relating to the practice of nurse midwifery.

C. HERNANDEZ, M.D., M.P.H., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 12, 1985

FILED WITH LRC: February 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1985, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office, in writing, by March 15, 1985, of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Clarence P. Marshall

(1) Type and number of entities affected: All nurse midwives in Kentucky (approximately 25)

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Very minimal; a renewal application form to be completed and mailed to the Department for Health Services.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Very, very minimal. Process the application, by verifying the information, and the issuance of a permit.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons

why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation

with conflicting provisions: N/A

(6) Any additional information or comments: Executive Order 83-660, signed by the Governor on 8-1-83, was not ratified, thereby necessitating this regulation.

Tiering:

Was tiering applied? No. Tiering not applicable.

## REPRINT

**COMPILER'S NOTE:** This proposed administrative regulation and the emergency regulation is being reprinted in order to show brackets in Section 2 that should have been included in the original publication.

### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice since no administrative regulations have been filed with respect to this subject matter previously. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

904 KAR 1:004E. Resource and income standard of medically needy.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: January 9, 1985

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:

(1) The upper limit for resources is \$1,600 [\$1,500] for family size of one (1), \$3,200 [\$3,000] for family size of two (2), and fifty (50) dollars for each additional member.

(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.

(3) Equity of \$6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of \$4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, or if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to \$3,000 [\$1,500] per individual, which may be in the form of burial agreement(s), (prepaid burials or similar arrangements, trust fund(s), [or] life insurance policies, or other separate and identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to un-commingle the burial reserve amount.

(6) [Burial agreements (pre-paid burials or similar arrangements) and] Burial spaces, plots, or vaults are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only [for any eligible group but eligible children in intact families who meet the AFDC income and resources requirements; the thirty (30) dollars and one-third (1/3) of the remainder exemption for qualifying families shall be treated in the same manner as for AFDC cases except that eligibility may not be extended based on a loss of this disregard].

Section 3. Income Limitations of the Medically Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	\$2,300	\$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

For each additional member, \$600 annually or fifty (50) dollars monthly is added to the scale.

Section 4. Additional Income Considerations. In comparing income with the scale as contained in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(1) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded.

(2) In cases of adults and children, dependent care as a work expense is allowed not to exceed \$160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or \$110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance is twenty-five (25) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of twenty-five (25) dollars is applied to the cost of care except as follows:

(a) Available income in excess of twenty-five (25) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-Down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special



services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits: such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements.

Section 10. Relative Responsibility. For purposes of the Medical Assistance Program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Stepparents are responsible for their stepchildren as shown in Section 10(7) and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(4) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(5) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource

would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(6) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(7) In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(8) Income and resources of parent(s) are not considered available to a child living apart from the parents' for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(9) When a recipient in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the twenty-five (25) dollars maintenance standard is not applicable since his/her needs are considered with that of other family members. The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income is considered in the same manner as for a parent if the stepparent is included in the family case. When the stepparent living in the home is not being included in the family case on the basis of incapacity, the stepparent's gross income is considered available to the parent (but not the other members of the assistance group) subject to the following exclusions/disregards:

(1) The first seventy-five (75) dollars of the gross earned income of the stepparent who is

employed full time or the first forty (40) dollars of the gross earned income of the stepparent who is employed part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(2) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability.

(3) Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(4) Payments by the stepparent for alimony or child support with respect to individuals not living in the household.

(5) Income of a stepparent receiving Supplemental Security Income.

(6) Verified medical expenses for the stepparent and his/her dependents in the home.

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

Section 13. Treatment of Lump-Sum Income. Lump-sum income is considered available in the month of receipt or the first administratively feasible month thereafter.

[Section 14. Full-Month Ineligibility Due to First-Day of Month Excess Resources. When an individual or family group related to the SSI assistance categories (i.e., aged, blind, or disabled) has excess resources on the first day of the month, the individual or group is ineligible throughout the month. The case shall be discontinued effective with the first administratively feasible month.]

Section 14. [15.] Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be

considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by \$500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death of a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care

facility, the actual cost of long term care (rather than the \$500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. [16.] Special Provisions for AIS/MR Recipients. Effective April 1, 1983, medical assistance eligibility for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.

(1) The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.

(2) Income protected for basic maintenance of the AIS/MR participant shall be the standard for the federal supplemental security income program.

(3) The attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all participants divided by twelve (12) and rounded to the nearest dollar.

(4) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.

Section 16. [17.] Implementation. The provisions of this regulation, as amended, will be effective on January 1, 1985 [October 1, 1984], applicable at the time of the next determination of eligibility for each applicant or recipient.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR. Secretary

APPROVED BY AGENCY: January 2, 1985

FILED WITH LRC: January 9, 1985 at 8:30 a.m.

**CABINET FOR HUMAN RESOURCES  
Department for Social Insurance  
Division of Management and Development  
(Proposed Amendment)**

**904 KAR 1:004. Resource and income standard of medically needy.**

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:

(1) The upper limit for resources is \$1,600 [\$1,500] for family size of one (1), \$3,200 [\$3,000] for family size of two (2), and fifty (50) dollars for each additional member.

(2) A homestead, occupied or abandoned,

household equipment, and farm equipment without limitation on value are excluded from consideration.

(3) Equity of \$6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of \$4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, or if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to \$3,000 [\$1,500] per individual, which may be in the form of burial agreement(s), prepaid burials or similar arrangements, trust fund(s), [or] life insurance policies, or other separate and identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to un-commingle the burial reserve amount.

(6) [Burial agreements (pre-paid burials or similar arrangements) and] Burial spaces, plots, or vaults are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from

consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only [for any eligible group but eligible children in intact families who meet the AFDC income and resources requirements; the thirty (30) dollars and one-third (1/3) of the remainder exemption for qualifying families shall be treated in the same manner as for AFDC cases except that eligibility may not be extended based on a loss of this disregard].

Section 3. Income Limitations of the Medically Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	\$2,300	\$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

For each additional member, \$600 annually or fifty (50) dollars monthly is added to the scale.

Section 4. Additional Income Considerations. In comparing income with the scale as contained in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(1) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded.

(2) In cases of adults and children, dependent care as a work expense is allowed not to exceed \$160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or \$110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the

cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance is twenty-five (25) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of twenty-five (25) dollars is applied to the cost of care except as follows:

(a) Available income in excess of twenty-five (25) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-Down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1,

1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements.

**Section 10. Relative Responsibility.** For purposes of the Medical Assistance Program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Stepparents are responsible for their stepchildren as shown in Section 10(7) and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(4) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(5) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(6) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the

SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(7) In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(8) Income and resources of parent(s) are not considered available to a child living apart from the parents' for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(9) When a recipient in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the twenty-five (25) dollars maintenance standard is not applicable since his/her needs are considered with that of other family members. The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

**Section 11. Treatment of Income of the Stepparent and Effect on Eligibility of the Assistance Group.** An incapacitated (as determined by the department) stepparent's income is considered in the same manner as for a parent if the stepparent is included in the family case. When the stepparent living in the home is not being included in the family case on the basis of incapacity, the stepparent's gross income is considered available to the parent (but not the other members of the assistance group) subject to the following exclusions/disregards:

(1) The first seventy-five (75) dollars of the gross earned income of the stepparent who is employed full time or the first forty (40) dollars of the gross earned income of the stepparent who is employed part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(2) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose

needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability.

(3) Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(4) Payments by the stepparent for alimony or child support with respect to individuals not living in the household.

(5) Income of a stepparent receiving Supplemental Security Income.

(6) Verified medical expenses for the stepparent and his/her dependents in the home.

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

Section 13. Treatment of Lump-Sum Income. Lump-sum income is considered available in the month of receipt or the first administratively feasible month thereafter.

[Section 14. Full-Month Ineligibility Due to First-Day of Month Excess Resources. When an individual or family group related to the SSI assistance categories (i.e., aged, blind, or disabled) has excess resources on the first day of the month, the individual or group is ineligible throughout the month. The case shall be discontinued effective with the first administratively feasible month.]

Section 14. [15.] Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal

was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by \$500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death of a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the \$500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. [16.] Special Provisions for AIS/MR Recipients. Effective April 1, 1983, medical assistance eligibility for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration

the special provisions contained in this section.

(1) The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.

(2) Income protected for basic maintenance of the AIS/MR participant shall be the standard for the federal supplemental security income program.

(3) The attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all participants divided by twelve (12) and rounded to the nearest dollar.

(4) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.

Section 16. [17.] Implementation. The provisions of this regulation, as amended, will be effective on January 1, 1985 [October 1, 1984], applicable at the time of the next determination of eligibility for each applicant or recipient.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 2, 1985

FILED WITH LRC: January 4, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main

Street, 4-West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: 50 to 100 applicants or recipients

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$25,000 to \$50,000 (costs)

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

## MINUTES OF THE ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### January 7, 1985 Meeting

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 7, 1985 at 2 p.m. in Room 103. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Bruce, seconded by Senator Quinlan, the minutes of the December 10-11, 1984 meeting were approved.

Present were:

Members: Representative Bill Brinkley, Chairman; Senators Pat McCuiston and Bill Quinlan; Representatives James Bruce and Greg Stumbo.

Guests: Senator Helen Garrett; Pat Arnold, Department of Law; Richard L. Ross, J. H. Voige, Board of Pharmacy; Martin Glazer, Mary Romelfanker, Bernadette M. Sutherland, Board of Nursing; Bill Graves, Department of Fish and Wildlife Resources; David Boswell, Thomas M. Troth, Department of Agriculture; Clyde P. Baldwin, William S. Coakley, Martha L. Hall, Timothy Kuryla, Roger B. McCann, Art Williams, Natural Resources and Environmental Protection Cabinet; G. C. Ethington, Jr., Sandra Pullen, Transportation Cabinet; Catherine C. Staib, Edward A. Farris, Alcoholic Beverage Control Board; Larry Stanley, Public Service Commission;

Barbara Coleman, Ked Fitzpatrick, N. Clifton Howard, Greg Lawther, Delano Miller, Cabinet for Human Resources; Lonnie S. Carter, Glenmore Distilleries; Frank M. Dailey, Kentucky Distillers' Association; Bill Doll, Kentucky Medical Association; Tom Dorman, Valerie Estill, Unified Prosecutorial System; Kenneth Halgash, Heaven Hill Distilleries; Robert E. Meyer, R. Scott Reid, Brown-Forman Corporation; Fred Tuggle, Kentucky Wholesale Liquor Dealers.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Rhonda Franklin, Donna Valencia, Mike Schillhahn, Paula Payne and Carla Arnold.

Press: Jack D. Brammer, Lexington Herald-Leader; Paul Long, State Journal.

The Administrative Regulation Review Subcommittee met on January 7, 1985, and submits the following report:

The Subcommittee determined that the following regulations, as amended, complied with the requirements of KRS Chapter 13A:

Department of Agriculture: Kentucky Grain Insurance and Grain Dealers

302 KAR 34:020 (Bonding requirements). Commissioner Boswell and the Subcommittee agreed to make the following technical amendments: In



Section 1(2), change the statutory cite from KRS 251.720(10) to KRS 251.451(1); in Sections 2 and 3, change the statutory cite from KRS 251.720(3) to KRS 251.720(6). The Subcommittee determined that the need for the above referenced regulation could be eliminated if KRS 251.720(10) were amended to provide that a grain dealer who is also a warehouseman, as defined in KRS 251.610, shall file with the department a surety bond as a grain dealer pursuant to KRS 251.720(3) or as a warehouseman pursuant to KRS 251.451, whichever bond is larger. The staff was directed to notify the standing committee staff of the need for possible amendment during the 1986 Session of the General Assembly.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A.

**Legislative Research Commission: Capital Construction and Equipment Purchase Oversight**

1 KAR 3:005 (Capital Construction and Equipment Oversight).

**Attorney General: Department of Law**

40 KAR 3:010 (Payment schedule to hospitals/physicians for medical examination of victims of sexual offenses).

**General Government Cabinet: Board of Pharmacy**

201 KAR 2:135 (Drug products with bioinequivalence problems).

**Board of Licensure for Nursing Home Administrators**

201 KAR 6:010 (Licensure).

**Board of Nursing**

201 KAR 20:210 (Standards for a program of continuing education).

201 KAR 20:220 (Provider approval).

**Tourism Cabinet: Department of Fish and Wildlife Resources: Game**

301 KAR 2:140 (Spring gun and archery season for wild turkey).

**Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Water**

401 KAR 5:050 (Definitions and general provisions; KPDES permitting program).

401 KAR 5:055 (Scope and applicability of the KPDES program).

401 KAR 5:060 (KPDES application requirements).

401 KAR 5:065 (KPDES permit conditions).

401 KAR 5:070 (Provisions of the KPDES permit).

**Division of Air Pollution: General Administrative Procedures**

The Subcommittee raised the question as to the availability of material incorporated by reference in the following regulations. The Division of Air Pollution agreed to make the material available at certain regional offices of the Cabinet and include a statement to that affect when the regulations are next amended.

401 KAR 50:015 (Documents incorporated by reference).

**Hazardous Pollutants**

401 KAR 57:011 (Asbestos standards).

401 KAR 57:035 (Equipment leaks).

401 KAR 57:040 (Equipment leaks of benzene).

**New Source Standards**

401 KAR 59:036 (New sulfuric acid manufacturing plants).

401 KAR 59:049 (New petroleum refinery

equipment leaks).

401 KAR 59:099 (New bulk gasoline terminals).

401 KAR 59:131 (New wet-process phosphoric acid plants).

401 KAR 59:136 (New superphosphoric acid plants).

401 KAR 59:141 (New diammonium phosphate plants).

401 KAR 59:146 (New triple superphosphate plants).

401 KAR 59:171 (New lime plants).

401 KAR 59:196 (New metal furniture coating operations).

401 KAR 59:201 (New large appliance coating operations).

401 KAR 59:212 (New graphic arts facilities using rotogravure and flexography).

401 KAR 59:213 (New publication rotogravure printing operations).

401 KAR 59:216 (New beverage can coating operations).

401 KAR 59:221 (New metal coil coating operations).

401 KAR 59:275 (New grain elevators).

401 KAR 59:280 (New synthetic fiber production facilities).

401 KAR 59:300 (New pressure sensitive tape and label surface coating operations).

401 KAR 59:305 (New synthetic organic chemical manufacturing industry equipment leaks).

**Transportation Cabinet: Department of Highways: Traffic**

603 KAR 5:030 (Right or left turn on red signal prohibitions).

**Public Protection and Regulation Cabinet: Alcoholic Beverage Control Board: Advertising Distilled Spirits and Wine**

804 KAR 1:100 (General advertising).

804 KAR 1:120 (Rebates and gift certificates).

Senator McCuiston voted no.

**Public Service Commission: Utilities**

807 KAR 5:006 (General rules).

**Cabinet for Human Resources: Department for Health Services: Hospitalization of Mentally Ill and Mentally Retarded**

902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities).

**State Health Plan**

902 KAR 17:010 (State health plan).

902 KAR 17:020 (State health plan process).

**Department for Social Insurance: Medical Assistance**

904 KAR 1:013 (Payments for hospital inpatient services).

904 KAR 1:110 (Recoupment of overpayments).

904 KAR 1:180 (Alternative birth center services).

904 KAR 1:190 (Payments for alternative birth center services).

904 KAR 1:270 (Podiatry services).

904 KAR 1:280 (Payments for podiatry services).

**Public Assistance**

904 KAR 2:110 (Refugee assistance).

The following regulations were deferred at the agency's request.

**Public Protection and Regulation Cabinet: Harness Racing Commission: Harness Racing Rules**

811 KAR 1:210 (Kentucky Standardbred

Development Fund).

**Department of Housing, Buildings and Construction: Plumbing**

815 KAR 20:055 (Water heater devices).

815 KAR 20:120 (Water supply and distribution).

The Subcommittee had no objections to emergency regulations which had been filed.

The subcommittee adjourned at 3 p.m. until February 11, 1985.

**February 11-12, 1985 Meeting**

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 11, 1985 at 2 p.m. in Room 103. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Bruce, seconded by Representative Meyer, the minutes of the January 7, 1985 meeting were approved.

Present were:

**Members:** Representative Bill Brinkley, Chairman; Senators Harold Haering; Pat McCuiston and Bill Quinlan; Representatives James Bruce; Edward Holloway; and Joseph Meyer.

**Guests:** Senator Henry Lackey; Joyce A. Bryan, Richard Casey, Higher Education Assistance Authority; Ron Carson, M. E. "Buddy" Combs, Charles D. Wickliffe, Finance and Administration Cabinet; Tom Carter, Board of Medical Licensure; Don McCormick, Peter W. Pfeiffer, Department of Fish and Wildlife Resources; Gary Faulkner, William E. Marcum, Natural Resources and Environmental Protection Cabinet; Darrell C. Baker, David Balch, Robert Cox, Jim Harville, James C. Holbrook, Edward LaFontaine, Sandra Pullen, Rick Ryan, Transportation Cabinet; Edward A. Farris, Alcoholic Beverage Control Board; Gary Bale, Ken Draut, Robert Elder, Conley Manning, Margaret McClain, Department of Education; Patrick Watts, Department of Insurance; Carl VanCleve, Judith Walden, Department of Housing, Buildings and Construction; Martin Anderson, Barbara Coleman, John Cubine, Ked Fitzpatrick, Stan Smith, Phillip Spangler, Cabinet for Human Resources; Fred Creasey, KACO; Prentice Harvey, County Judge/Executive Association; Norris Hulette, Justice Cabinet; Etta Ruth Kepp, Ed Sergeant, Governor's Office for Policy & Management; Jimmy Williams.

**LRC Staff:** Susan Wunderlich, Joe Hood, Rhonda Franklin, Shirley Hart, June Mabry, Donna Valencia, Gerard Donovan, Chris Lilly, Barbara Rhodes and Carla Arnold.

**Press:** Garnet Williamson, KEA.

The Administrative Regulation Review Subcommittee met on February 11-12, 1985, and submits the following report:

The Subcommittee determined that the following regulations, as amended, complied with the requirements of KRS Chapter 13A:

**General Government Cabinet: Board of Medical Licensure**

201 KAR 9:018 (Physician advertising.) The subcommittee and agency agreed to delete in Section 2 the definition "unfair" and

"undignified" and to amend Section 4 to set out when an advertisement may not be sent to an addressee.

201 KAR 9:021 (Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees.) The subcommittee and agency agreed to delete unnecessary wording in Section 5 and to clarify in Section 5(1) that clerkships begun after the effective date of this regulation have to be evaluated and approved by the foreign medical school.

**Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Plumbing**

815 KAR 20:055 (Water heater devices.) The subcommittee and agency amended the necessity and function section to clarify that this regulation applies only to sales in first and second class cities and urban county government. The regulation was also amended to allow the required information to be submitted on forms authorized by the department.

815 KAR 20:120 (Water supply and distribution.) The subcommittee and agency agreed to amend this regulation by deleting the exception in Section 7(1).

The Subcommittee determined that the following regulations complied with KRS Chapter 13A.

**Kentucky Higher Education Assistance Authority: KHEAA Grant Programs**

11 KAR 5:020 (Definitions.)

11 KAR 5:030 (Student eligibility requirements.)

11 KAR 5:060 (Award determination procedure.)

11 KAR 5:085 (Requirement of Pell Grant application.)

**Kentucky Higher Education Student Loan Corporation: Guaranteed Student Loans and Loans to Parents**

15 KAR 1:010 (Qualifications of applicants.)

**Finance and Administration Cabinet: Accounts**

200 KAR 8:030 (Allocation of driving under the influence service fees.) The subcommittee felt that this regulation might be unconstitutional because there was no appropriation for allocation of such fees in the budget bill of the 1984 General Assembly. The subcommittee approved a motion to approve the regulation without attachment, and to refer the regulation to the Interim Joint Committee on Appropriations and Revenue for review.

**Natural Resources and Environmental Protection Cabinet: Department of Natural Resources: Water Patrol**

402 KAR 4:030 (Registration decal.)

**Transportation Cabinet: Administration**

600 KAR 1:070 (Motor pool procedure.)

**Division of Aeronautics and Airport Zoning: Airport Development**

602 KAR 15:010 (Airport development loans.)

**Public Protection and Regulation Cabinet: Alcoholic Beverage Control Board: Licensing**

804 KAR 4:270 (Substantial part/staple

groceries defined.)

**Tourism Cabinet: Department of Fish and Wildlife Resources: Fish**

301 KAR 1:055 (Angling; limits and seasons.)

**Education and Humanities Cabinet: Department of Education: Office of Superintendent**

704 KAR 3:320 (Essential skills.)

**Private and Parochial Schools**

704 KAR 6:011 (Repeal of 704 KAR 6:010.)

704 KAR 7:060 (Missing Kentucky school children program.)

**Elementary and Secondary Education Act**

704 KAR 10:022 (Elementary, middle and secondary schools standards.)

**Public Protection and Regulation Cabinet: Department of Insurance: Agents, Consultants, Solicitors and Adjusters**

806 KAR 9:180 (Period for which examination results are valid.)

**Health Maintenance Organizations**

806 KAR 38:020 (Health maintenance organization agent license.)

Representative Bruce requested that the Department of Insurance staff inform the subcommittee as to whether the rights granted under this regulation to non-Kentucky HMO's are granted to Kentucky HMO's by states bordering Kentucky.

**Cabinet for Human Resources: Department for Health Services: Local Health Departments**

902 KAR 8:020 (Policies and procedures for local health department operations.)

**Hospitalization of Mentally Ill and Mentally Retarded**

902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)

**Department for Social Insurance: Medical Assistance**

904 KAR 1:009 (Physicians' services.)

904 KAR 1:022 (Skilled nursing facility services.)

904 KAR 1:024 (Intermediate care facility services.)

904 KAR 1:055 (Payments for primary care center services.)

The following regulations were deferred at the agency's request.

**Transportation Cabinet: Administration: Toll Facilities**

600 KAR 2:010 (Toll assessment on turnpikes.)

600 KAR 2:020 (Emergency vehicles and vehicles in processions on the toll roads.)

600 KAR 2:030 (Toll road credit cards.)

**Department of Highways: Traffic**

603 KAR 5:150 (Encroachment permits.)

**Transportation Scholarship Program**

603 KAR 8:010 (Transportation scholarship program.)

**Education and Humanities Cabinet: Department of Education: Office of Superintendent**

701 KAR 5:060 (Code of ethics for state testing program.)

**Office of Instruction: Textbooks, Library and Instructional Materials**

704 KAR 3:305 (Minimum unit requirements for high school graduation.)

704 KAR 3:340 (Commonwealth diploma program.)

704 KAR 3:345 (Evaluation guidelines.)

**Student Services**

704 KAR 7:050 (Student discipline guidelines.)

The Subcommittee had no objections to emergency regulations which had been filed.

The subcommittee adjourned at 11 a.m. until March 11, 1985.



CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	I2
KRS Index.....	I12
Subject Index to Volume 11.....	I19

## LOCATOR INDEX -- EFFECTIVE DATES

NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.

## VOLUME 10

Regulation	10 Ky.R. Page No.	Effective Date
400 KAR 2:020	1206	8-7-84
405 KAR 1:015	1215	8-7-84
405 KAR 3:015	1216	8-7-84
405 KAR 7:015	1216	8-7-84
405 KAR 30:015	1218	8-7-84
900 KAR 3:010	1226	8-7-84

## VOLUME 11

Emergency Regulation	11 Ky.R. Page No.	Effective Date	Emergency Regulation	11 Ky.R. Page No.	Effective Date
40 KAR 3:010E	923	10-24-84	405 KAR 1:015E	7	5-16-84
Replaced	1006	1-7-85	Replaced		8-7-84
105 KAR 1:080E	535	8-31-84	405 KAR 3:015E	8	5-16-84
Replaced	616	11-13-84	Replaced		8-7-84
109 KAR 9:010E	1	6-15-84	405 KAR 7:015E	8	5-16-84
Replaced	93	8-7-84	Replaced		8-7-84
200 KAR 8:030E	1017	12-14-84	405 KAR 10:035E	388	7-16-84
Replaced	1095	2-12-85	Replaced	577	10-9-84
201 KAR 9:021E	123	7-12-84	405 KAR 16:020E	390	7-16-84
Replaced	553	10-9-84	Replaced	578	10-9-84
Resubmitted	1115	12-14-84	405 KAR 30:015E	10	5-16-84
Replaced	1257	2-12-85	Replaced		8-7-84
301 KAR 1:140E	692	10-2-84	501 KAR 6:010E	10	5-16-84
Replaced	620	11-13-84	Replaced		6-28-84
301 KAR 2:044E	387	8-1-84	600 KAR 1:030E	536	8-28-84
Replaced	422	10-9-84	Replaced	517	10-9-84
301 KAR 2:200E	693	10-9-84	601 KAR 1:015E	128	7-13-84
Replaced	880	12-11-84	Replaced	332	9-11-84
302 KAR 16:010E	125	7-12-84	601 KAR 1:130E	129	7-13-84
Replaced	399	9-11-84	Expired		10-30-84
302 KAR 16:020E	126	7-12-84	601 KAR 9:011E	130	7-13-84
Replaced	400	9-11-84	Replaced	335	9-11-84
302 KAR 16:030E	126	7-12-84	601 KAR 9:013E	130	7-13-84
Replaced	401	9-11-84	Replaced	240	9-11-84
302 KAR 16:040E	126	7-12-84	601 KAR 9:074E	131	7-13-84
Replaced	324	9-11-84	Replaced	581	10-9-84
302 KAR 16:050E	127	7-12-84	601 KAR 13:040E	134	7-13-84
Replaced	324	9-11-84	Replaced	335	9-11-84
302 KAR 20:150E	2	6-5-84	601 KAR 13:050E	135	7-13-84
Replaced	401	9-11-84	Replaced	699	10-9-84
302 KAR 20:160E	3	6-5-84	601 KAR 35:010E	136	7-13-84
Expired		9-29-84	Expired		10-30-84
302 KAR 20:170E	127	7-12-84	601 KAR 35:020E	137	7-13-84
Expired		10-30-84	Replaced	585	10-9-84
302 KAR 20:180E	1241	1-30-85	601 KAR 35:040E	139	7-13-84
302 KAR 34:010E	128	7-12-84	Replaced	587	10-9-84
Replaced	402	10-9-84	601 KAR 35:050E	139	7-13-84
302 KAR 34:020E	1018	11-15-84	Replaced	587	10-9-84
Replaced	1006	1-7-85	602 KAR 15:020E	140	7-13-84
401 KAR 4:200E	3	5-16-84	Replaced	549	9-11-84
Replaced	176	8-7-84	603 KAR 5:130E	141	7-13-84
401 KAR 5:200E	4	5-16-84	Expired		10-30-84
Replaced	177	8-7-84	603 KAR 7:020E	142	7-13-84
401 KAR 6:200E	5	5-16-84	Replaced	346	9-11-84
Replaced	178	8-7-84	603 KAR 7:030E	142	7-13-84
401 KAR 30:070E	6	5-16-84	Replaced	347	9-11-84
Replaced	179	8-7-84	603 KAR 7:040E	143	7-13-84
401 KAR 50:016E	7	5-16-84	Replaced	348	9-11-84
Replaced	179	8-7-84	603 KAR 7:050E	143	7-13-84
402 KAR 3:010E	536	9-13-84	Replaced	349	9-11-84
Replaced	669	11-13-84	603 KAR 7:060E	144	7-13-84
			Replaced	349	9-11-84



# ADMINISTRATIVE REGISTER - I3

Emergency Regulation	11 Ky.R. Page No.	Effective Date	Emergency Regulation	11 Ky.R. Page No.	Effective Date
603 KAR 7:070E	144	7-13-84	904 KAR 1:011E	936	10-19-84
Replaced	350	9-11-84	Replaced	846	12-11-84
702 KAR 1:120E	697	9-21-84	Resubmitted	1121	1-9-85
Replaced	671	11-13-84	904 KAR 1:020E	697	9-19-84
704 KAR 20:310E	1243	1-15-85	Replaced	658	11-13-84
804 KAR 9:050E	144	7-11-84	904 KAR 1:036E	153	7-6-84
Replaced	361	9-11-84	Replaced	284	9-11-84
807 KAR 5:006E	924	10-23-84	Resubmitted	939	10-19-84
Replaced	1048	1-7-85	Replaced	849	12-11-84
815 KAR 7:080E	145	7-13-84	904 KAR 1:045E	544	8-27-84
Replaced	372	9-11-84	Replaced	290	9-11-84
900 KAR 1:011E	15	5-21-84	904 KAR 1:055E	158	7-6-84
Replaced	102	8-7-84	Replaced	291	9-11-84
900 KAR 1:030E	16	5-16-84	904 KAR 1:061E	945	10-19-84
Replaced	103	8-7-84	Replaced	854	12-11-84
900 KAR 1:040E	17	5-16-84	904 KAR 1:250E	28	5-16-84
Replaced	103	8-7-84	Replaced		6-28-84
900 KAR 3:010E	17	5-16-84	Resubmitted	947	10-19-84
Replaced		8-7-84	Replaced	856	12-11-84
902 KAR 1:340E	18	5-16-84	Resubmitted	1249	1-21-85
Expired		9-29-84	904 KAR 1:270E	1020	12-13-84
902 KAR 4:015E	1245	2-12-85	Replaced	1012	1-7-85
902 KAR 4:050E	18	5-21-84	904 KAR 1:280E	1021	12-13-84
Replaced		6-28-84	Replaced	1013	1-7-85
902 KAR 4:060E	19	5-21-84	904 KAR 2:006E	948	10-19-84
Replaced	104	8-7-84	Replaced	858	12-11-84
902 KAR 4:070E	19	5-21-84	904 KAR 2:016E	159	6-20-84
Replaced	104	8-7-84	Replaced	82	8-7-84
902 KAR 4:080E	20	5-21-84	Resubmitted	950	10-19-84
Replaced	105	8-7-84	Replaced	860	12-11-84
902 KAR 4:090E	147	6-20-84	904 KAR 2:020E	955	10-19-84
Replaced	105	8-7-84	Replaced	865	12-11-84
902 KAR 6:060E	537	8-27-84	904 KAR 2:115E	393	7-20-84
Replaced	374	9-11-84	Repealed	957	10-19-84
902 KAR 8:020E	20	5-21-84	904 KAR 2:116E	957	10-19-84
Replaced		7-10-84	Replaced	916	12-11-84
Resubmitted	538	9-13-84	904 KAR 2:140E	29	5-16-84
Replaced	653	11-13-84	Replaced		6-28-84
902 KAR 8:030E	21	5-21-84	Resubmitted	163	7-11-84
Replaced	106	8-7-84	Replaced	298	9-11-84
902 KAR 10:110E	149	6-20-84	Resubmitted	959	10-19-84
Replaced	107	9-11-84	Replaced	867	12-11-84
902 KAR 12:060E	22	5-21-84	Resubmitted	1250	1-21-85
Replaced	108	8-7-84	904 KAR 2:150E	29	5-16-84
902 KAR 12:070E	23	5-21-84	Replaced		6-28-84
Replaced	108	8-7-84	Resubmitted	960	10-19-84
902 KAR 12:080E	24	5-21-84	Replaced	868	12-11-84
Replaced		6-28-84	Resubmitted	1251	1-21-85
902 KAR 13:100E	393	8-2-84	904 KAR 2:160E	30	5-16-84
Replaced	526	10-9-84	Replaced		6-28-84
902 KAR 17:010E	1019	12-13-84	904 KAR 2:170E	30	5-16-84
Replaced	999	1-7-85	Replaced		6-28-84
902 KAR 20:006E	539	8-27-84	Resubmitted	961	10-19-84
Replaced	460	10-9-84	Replaced	868	12-11-84
902 KAR 45:130E	25	5-21-84	Resubmitted	1252	1-21-85
Replaced	112	8-7-84	904 KAR 2:180E	31	5-16-84
902 KAR 45:140E	25	5-21-84	Replaced		6-28-84
Replaced	112	8-7-84	Resubmitted	962	10-19-84
902 KAR 50:090E	26	5-21-84	Replaced	869	12-11-84
Replaced	112	8-7-84	904 KAR 2:190E	31	5-16-84
902 KAR 50:100E	27	5-21-84	Replaced		6-28-84
Replaced	114	8-7-84	Resubmitted	962	10-19-84
903 KAR 5:150E	1246	1-21-85	Replaced	870	12-11-84
903 KAR 5:280E	1247	1-21-85	904 KAR 2:200E	32	5-16-84
904 KAR 1:004E	149	7-6-84	Replaced		6-28-84
Replaced	280	9-11-84	Resubmitted	963	10-19-84
Resubmitted	932	10-19-84	Replaced	871	12-11-84
Replaced	842	12-11-84	904 KAR 3:035E	163	6-20-84
Resubmitted	1117	1-9-85	Replaced	89	8-7-84
Reprint	1350		Resubmitted	1253	2-12-85
			904 KAR 3:050E	1254	2-12-85



## ADMINISTRATIVE REGISTER - I4

Emergency Regulation	11 Ky.R. Page No.	Effective Date	Emergency Regulation	11 Ky.R. Page No.	Effective Date
904 KAR 3:090E	32	5-16-84	905 KAR 8:040E	47	5-16-84
Replaced		6-28-84	Replaced		6-28-84
Resubmitted	165	7-11-84	905 KAR 8:050E	47	5-16-84
Replaced	302	9-11-84	Replaced		6-28-84
Resubmitted	963	10-19-84	905 KAR 8:060E	48	5-16-84
Replaced	872	12-11-84	Replaced	119	9-11-84
Resubmitted	1255	1-21-85	905 KAR 8:070E	548	8-27-84
904 KAR 5:100E	33	5-21-84	Replaced	530	10-9-84
Replaced	196	7-10-84	905 KAR 8:080E	48	5-16-84
904 KAR 5:130E	34	5-21-84	Replaced		6-28-84
Replaced	197	7-10-84	905 KAR 8:110E	49	5-16-84
904 KAR 5:260E	36	5-21-84	Replaced		6-28-84
Replaced	304	7-10-84	905 KAR 8:120E	49	5-16-84
904 KAR 5:270E	165	7-6-84	Replaced	414	9-11-84
Replaced	375	9-11-84	905 KAR 8:130E	50	5-16-84
904 KAR 6:010E	36	5-21-84	Replaced		6-28-84
Replaced		6-28-84	906 KAR 1:010E	50	5-16-84
904 KAR 6:020E	37	5-21-84	Replaced	119	8-7-84
Replaced		6-28-84	906 KAR 1:020E	51	5-16-84
904 KAR 6:030E	37	5-21-84	Replaced	120	8-7-84
Replaced		6-28-84			
904 KAR 6:040E	38	5-21-84		11 Ky.R. Page No.	Effective Date
Replaced		6-28-84	Regulation		
904 KAR 6:050E	38	5-21-84	1 KAR 1:010		
Replaced		6-28-84	Amended	169	
905 KAR 1:150E	39	5-17-84	1 KAR 3:005		
Replaced		7-10-84	Amended	609	
905 KAR 1:170E	166	6-20-84	Withdrawn		11-13-84
Replaced	115	8-7-84	Amended	983	1-7-85
905 KAR 1:180E	39	5-17-84	11 KAR 4:040	507	10-9-84
Replaced	116	8-7-84	11 KAR 5:020		
Resubmitted	544	8-27-84	Amended	1056	2-12-85
Replaced	504	10-9-84	11 KAR 5:030		
905 KAR 5:030E	166	6-20-84	Amended	1058	2-12-85
Replaced	116	8-7-84	11 KAR 5:060		
905 KAR 6:020E	40	5-17-84	Amended	1059	2-12-85
Replaced		6-28-84	11 KAR 5:085		
905 KAR 6:030E	40	5-17-84	Amended	1060	2-12-85
Replaced	117	8-7-84	11 KAR 6:010	508	10-9-84
905 KAR 7:010E	41	5-21-84	12 KAR 4:010		
Replaced		6-28-84	Repealed	509	11-13-84
905 KAR 7:020E	41	5-17-84	12 KAR 4:020		
Replaced	117	8-7-84	Repealed	509	11-13-84
905 KAR 7:030E	42	5-17-84	12 KAR 4:030		
Replaced		6-28-84	Repealed	509	11-13-84
Resubmitted	964	10-19-84	12 KAR 4:040		
Replaced	875	12-11-84	Repealed	509	11-13-84
905 KAR 7:040E	42	5-21-84	12 KAR 4:050		
Replaced		6-28-84	Repealed	509	11-13-84
905 KAR 7:050E	167	6-20-84	12 KAR 4:060		
Replaced	117	8-7-84	Repealed	509	11-13-84
905 KAR 7:060E	44	5-21-84	12 KAR 4:070		
Replaced		6-28-84	Repealed	509	11-13-84
905 KAR 7:070E	44	5-21-84	12 KAR 4:080	509	11-13-84
Replaced		6-28-84	12 KAR 4:090	510	11-13-84
905 KAR 7:080E	45	5-17-84	12 KAR 4:100	510	11-13-84
Replaced	118	8-7-84	12 KAR 4:110	511	11-13-84
Resubmitted	545	8-27-84	12 KAR 4:120	512	11-13-84
Replaced	505	10-9-84	12 KAR 4:130	512	11-13-84
Resubmitted	967	10-19-84	12 KAR 4:140	514	11-13-84
Replaced	877	12-11-84	12 KAR 4:150	515	
905 KAR 7:090E	167	6-20-84	Withdrawn		11-12-84
Replaced	118	8-7-84	12 KAR 4:160	516	11-13-84
905 KAR 7:100E	969	10-19-84	12 KAR 4:170	516	
Replaced	918	12-11-84	Amended	970	11-13-84
905 KAR 8:010E	46	5-16-84	12 KAR 5:020		
Replaced		6-28-84	Amended	612	11-13-84
905 KAR 8:020E	546	8-27-84	12 KAR 5:030		
Replaced	376	9-11-84	Amended	613	11-13-84
905 KAR 8:030E	46	5-16-84	12 KAR 5:040		
Replaced		6-28-84	Amended	615	11-13-84

# ADMINISTRATIVE REGISTER - 15

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
15 KAR 1:010			201 KAR 16:010		
Amended	1061	2-12-85	Amended	1272	
40 KAR 2:010			201 KAR 19:035		
Amended	52	7-1-84	Amended	1273	
40 KAR 3:010	1006	1-7-85	201 KAR 19:095		
105 KAR 1:010			Amended	1276	
Amended	53	8-7-84	201 KAR 20:210		
105 KAR 1:080			Amended	989	1-7-85
Amended	616	11-13-84	201 KAR 20:220		
106 KAR 1:020			Amended	990	1-7-85
Amended	617	11-13-84	201 KAR 22:010		
106 KAR 1:040	879		Amended	734	12-11-84
Amended	1022	12-11-84	201 KAR 22:020		
107 KAR 1:040	665	11-13-84	Amended	735	12-11-84
109 KAR 9:010	93	8-7-84	201 KAR 22:031		
115 KAR 2:020	306		Amended	415	10-9-84
Amended	550	10-9-84	201 KAR 22:040		
200 KAR 5:308			Amended	417	10-9-84
Amended	201	9-11-84	201 KAR 22:052		
200 KAR 8:030	1095	2-12-85	Amended	417	10-9-84
200 KAR 9:010			201 KAR 22:070		
Repealed	1	6-15-84	Amended	419	10-9-84
201 KAR 2:040			201 KAR 22:106		
Amended	1125		Amended	420	10-9-84
201 KAR 2:135			201 KAR 22:110		
Amended	986	1-7-85	Amended	422	10-9-84
201 KAR 2:190			201 KAR 23:030		
Amended	1126		Amended	201	9-11-84
201 KAR 6:010			301 KAR 1:016		
Amended	987	1-7-85	Amended	1126	
201 KAR 9:018	1097		301 KAR 1:055		
Amended	1256	2-12-85	Amended	1065	2-12-85
201 KAR 9:020			301 KAR 1:075		
Repealed	123	7-12-84	Amended	619	11-13-84
201 KAR 9:021	309		301 KAR 1:082		
Amended	553	10-9-84	Amended	1127	
Amended	1063		301 KAR 1:140		
Amended	1257	2-12-85	Amended	620	11-13-84
201 KAR 9:023	311	10-9-84	301 KAR 1:160	1217	
201 KAR 9:024	311	10-9-84	301 KAR 2:044		
201 KAR 9:025	312	10-9-84	Amended	422	10-9-84
201 KAR 9:030			301 KAR 2:050		
Repealed	553	10-9-84	Amended	735	12-11-84
201 KAR 9:031	313	10-9-84	301 KAR 2:055		
201 KAR 9:040			Repealed	693	10-9-84
Repealed	553	10-9-84	301 KAR 2:071		
201 KAR 9:041	314		Repealed	321	9-11-84
Amended	554	10-9-84	301 KAR 2:088		
201 KAR 9:050			Repealed	693	10-9-84
Repealed	553	10-9-84	301 KAR 2:140		
201 KAR 9:051	314		Amended	991	1-7-85
Amended	555	10-9-84	301 KAR 2:180	666	11-13-84
201 KAR 9:060			301 KAR 2:190	321	9-11-84
Repealed	123	7-12-84	301 KAR 2:200	880	12-11-84
201 KAR 9:061	315		301 KAR 3:070		
Amended	556	10-9-84	Repealed	693	10-9-84
201 KAR 9:070			302 KAR 16:010	94	
Repealed	553	10-9-84	Amended	399	9-11-84
201 KAR 9:071	316	10-9-84	302 KAR 16:020	94	
201 KAR 9:080			Amended	400	9-11-84
Repealed	123	7-12-84	302 KAR 16:030	95	
201 KAR 9:081	317		Amended	401	9-11-84
Amended	557	10-9-84	302 KAR 16:040	324	9-11-84
201 KAR 9:082	320	10-9-84	302 KAR 16:050	324	9-11-84
201 KAR 9:085			302 KAR 20:150	95	
Repealed	123	7-12-84	Amended	401	9-11-84
201 KAR 11:180	1215		302 KAR 20:160	95	
201 KAR 13:040			Amended	402	
Amended	55	8-7-84	Withdrawn		12-10-84
Amended	732	12-11-84	302 KAR 20:170	325	
201 KAR 13:050			Withdrawn		12-10-84
Amended	56	8-7-84	302 KAR 20:180	1343	
Amended	733	12-11-84	302 KAR 34:010	96	
			Amended	402	10-9-84



# ADMINISTRATIVE REGISTER - I6

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
302 KAR 34:020	1006	1-7-85	401 KAR 50:016		
400 KAR 2:010			Amended	179	8-7-84
Amended	171	8-7-84	401 KAR 57:010		
400 KAR 2:030			Repealed	885	1-7-85
Amended	172	8-7-84	401 KAR 57:011	885	1-7-85
400 KAR 2:040			401 KAR 57:035	887	1-7-85
Amended	173	8-7-84	401 KAR 57:040	888	1-7-85
400 KAR 2:050			401 KAR 59:035		
Amended	176	8-7-84	Repealed	889	1-7-85
401 KAR 4:200			401 KAR 59:036	889	1-7-85
Amended	176	8-7-84	401 KAR 59:048		
401 KAR 5:010			Repealed	890	1-7-85
Amended	1128		401 KAR 59:049	890	1-7-85
401 KAR 5:026			401 KAR 59:099	891	1-7-85
Amended	424		401 KAR 59:100		
Amended	703	11-13-84	Repealed	891	1-7-85
Amended	1132		401 KAR 59:130		
401 KAR 5:029			Repealed	893	1-7-85
Amended	1141		401 KAR 59:131	893	1-7-85
401 KAR 5:031			401 KAR 59:135		
Amended	1144		Repealed	894	1-7-85
401 KAR 5:050			401 KAR 59:136	894	1-7-85
Amended	737	1-7-85	401 KAR 59:140		
401 KAR 5:055			Repealed	895	1-7-85
Amended	740		401 KAR 59:141	895	1-7-85
Amended	1028	1-7-85	401 KAR 59:145		
401 KAR 5:060			Repealed	896	1-7-85
Amended	756	1-7-85	401 KAR 59:146	896	1-7-85
401 KAR 5:065			401 KAR 59:170		
Amended	765	1-7-85	Repealed	897	1-7-85
401 KAR 5:070			401 KAR 59:171	897	1-7-85
Amended	773	1-7-85	401 KAR 59:195		
401 KAR 5:200			Repealed	899	1-7-85
Amended	177	8-7-84	401 KAR 59:196	899	1-7-85
Amended	1066		401 KAR 59:200		
401 KAR 6:040			Repealed	900	1-7-85
Amended	1068		401 KAR 59:201	900	1-7-85
Amended	1262		401 KAR 59:212		
401 KAR 6:200			Amended	779	1-7-85
Amended	178	8-7-84	401 KAR 59:213	901	1-7-85
401 KAR 30:010			401 KAR 59:215		
Amended	202	10-9-84	Repealed	902	1-7-85
401 KAR 30:070			401 KAR 59:216	902	1-7-85
Amended	179	8-7-84	401 KAR 59:220		
Amended	1278		Repealed	903	1-7-85
401 KAR 31:040			401 KAR 59:221	903	1-7-85
Amended	210		401 KAR 59:275	905	1-7-85
Amended	560	10-9-84	401 KAR 59:280	906	1-7-85
401 KAR 31:160			401 KAR 59:300	907	1-7-85
Amended	220	10-9-84	401 KAR 59:305	908	1-7-85
401 KAR 31:170			401 KAR 61:165		
Amended	222	10-9-84	Amended	574	10-1-84
401 KAR 32:020			401 KAR 100:020	667	
Amended	226	10-9-84	Withdrawn		11-13-84
401 KAR 32:050			402 KAR 3:010	669	11-13-84
Amended	227	10-9-84	402 KAR 4:030		
401 KAR 32:100	326		Amended	1073	2-12-85
Amended	568	10-9-84	402 KAR 4:190		
401 KAR 47:020			Amended	1158	
Amended	1279		405 KAR 7:020		
401 KAR 47:050			Amended	228	10-9-84
Amended	1282		405 KAR 7:030		
401 KAR 49:010			Amended	235	
Amended	56	9-11-84	Amended	576	10-9-84
401 KAR 49:020			405 KAR 7:070	1345	
Amended	58	9-11-84	405 KAR 10:035	331	
401 KAR 49:030			Amended	577	10-9-84
Amended	61		405 KAR 16:020		
Amended	403	9-11-84	Amended	237	
401 KAR 49:010	96	9-11-84	Amended	578	10-9-84
401 KAR 50:015			405 KAR 16:120		
Amended	776		Amended	1290	
Amended	1045	1-7-85			

# ADMINISTRATIVE REGISTER - I7

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
405 KAR 18:120			701 KAR 5:060	1105	
Amended	1296		Amended	1267	
410 KAR 1:010	1218		702 KAR 1:005		
410 KAR 1:020	1222		Amended	180	8-7-84
501 KAR 6:010			702 KAR 1:115	351	9-11-84
Amended	782	12-11-84	702 KAR 1:120	671	11-13-84
600 KAR 1:030	517	10-9-84	702 KAR 3:100		
600 KAR 1:040	518		Amended	249	9-11-84
Amended	726		702 KAR 3:190	352	
Amended	970	11-13-84	Amended	591	10-9-84
600 KAR 1:050	520		702 KAR 4:030		
Amended	728		Amended	249	
Amended	973	11-13-84	Withdrawn		10-5-84
600 KAR 1:060	523		702 KAR 4:050		
Withdrawn		11-12-84	Amended	1160	
600 KAR 1:070	523	10-9-84	702 KAR 7:030		
Amended	1074	2-12-85	Amended	1161	
600 KAR 2:010	1097		703 KAR 1:090	671	
600 KAR 2:020	1098		Withdrawn		12-5-84
600 KAR 2:030	1099		703 KAR 2:010		
600 KAR 2:040	909	12-11-84	Amended	250	10-9-84
601 KAR 1:015	332	9-11-84	Recodified		10-9-84
601 KAR 1:130	334		703 KAR 2:050		
Withdrawn		9-5-84	Amended	185	8-7-84
601 KAR 9:011	335	9-11-84	Recodified		10-5-84
601 KAR 9:013			704 KAR 3:005		
Amended	240	9-11-84	Amended	622	
601 KAR 9:074			Amended	977	
Amended	241		Amended	1023	12-11-84
Amended	581	10-9-84	704 KAR 3:035		
601 KAR 13:040	335	9-11-84	Amended	251	9-11-84
601 KAR 13:050	337		704 KAR 3:304		
Amended	584		Amended	252	
Amended	699	10-9-84	Amended	591	10-9-84
601 KAR 35:010	338		704 KAR 3:305		
Withdrawn		9-5-84	Amended	1076	
601 KAR 35:020	339	10-9-84	704 KAR 3:320	353	10-9-84
Amended	585		Amended	1077	2-12-85
601 KAR 35:040	341		704 KAR 3:325	355	
Amended	587	10-9-84	Amended	591	10-9-84
601 KAR 35:050	343		704 KAR 3:340	1105	
Amended	587	10-9-84	Amended	1267	
602 KAR 15:010			704 KAR 3:345	1107	
Amended	244	9-11-84	Amended	1268	
Amended	1074	2-12-85	704 KAR 3:355	1227	
602 KAR 15:020	344		704 KAR 6:010		
Amended	549	9-11-84	Repealed	1108	2-12-85
603 KAR 3:051			704 KAR 6:011	1108	2-12-85
Amended	450	10-9-84	704 KAR 7:050	1109	
603 KAR 4:035			Amended	1270	
Amended	246		704 KAR 7:060	1110	2-12-85
Amended	588	10-9-84	704 KAR 10:022		
603 KAR 5:030			Amended	253	10-9-84
Amended	994	1-7-85	Amended	1078	2-12-85
603 KAR 5:050			704 KAR 15:090		
Amended	1159		Amended	1162	
603 KAR 5:061	1223		704 KAR 20:005		
603 KAR 5:120	1225		Amended	254	10-9-84
603 KAR 5:130	345		704 KAR 20:035		
Withdrawn		8-27-84	Amended	624	11-13-84
603 KAR 5:140	670		704 KAR 20:045		
Withdrawn		11-14-84	Amended	625	11-13-84
603 KAR 5:150	1100		704 KAR 20:050		
603 KAR 5:160	1101		Amended	627	11-13-84
Withdrawn		1-23-85	704 KAR 20:051		
603 KAR 7:020	346	9-11-84	Repealed	625	11-13-84
603 KAR 7:030	347	9-11-84	704 KAR 20:060		
603 KAR 7:040	348	9-11-84	Amended	628	11-13-84
603 KAR 7:050	349	9-11-84	704 KAR 20:065		
603 KAR 7:060	349	9-11-84	Amended	629	11-13-84
603 KAR 7:070	350	9-11-84	704 KAR 20:070		
603 KAR 8:010	1103		Amended	255	9-11-84
605 KAR 1:150	524	10-9-84	Amended	630	11-13-84



# ADMINISTRATIVE REGISTER - I8

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
704 KAR 20:076			804 KAR 9:050	361	9-11-84
Amended	255	9-11-84	805 KAR 1:110		
704 KAR 20:078			Amended	406	9-1-84
Amended	256	9-11-84	805 KAR 4:087		
704 KAR 20:080			Amended	788	12-11-84
Amended	257	9-11-84	805 KAR 4:110		
Amended	631	11-13-84	Amended	789	12-11-84
704 KAR 20:085			806 KAR 2:090		
Amended	632	11-13-84	Amended	648	11-13-84
704 KAR 20:090			806 KAR 2:095		
Amended	258	10-9-84	Amended	649	
Amended	633	11-13-84	Amended	981	12-11-84
704 KAR 20:120			806 KAR 2:096	675	11-13-84
Amended	634	12-11-84	806 KAR 2:097	676	
704 KAR 20:145			Amended	982	12-11-84
Amended	635	11-13-84	806 KAR 2:100	100	8-7-84
704 KAR 20:150			806 KAR 6:060	678	11-13-84
Amended	636	11-13-84	806 KAR 6:070	679	11-13-84
704 KAR 20:159			806 KAR 6:080	681	11-13-84
Amended	637	11-13-84	806 KAR 9:180	1111	2-12-85
704 KAR 20:210			806 KAR 12:090	100	8-7-84
Amended	637		806 KAR 12:100	362	
Amended	980	12-11-84	Withdrawn		9-4-84
704 KAR 20:222			806 KAR 12:110	683	11-13-84
Amended	638	11-13-84	806 KAR 14:080		
704 KAR 20:230			Repealed	675	11-13-84
Amended	640	11-13-84	806 KAR 15:010		
704 KAR 20:235			Amended	261	
Amended	641	11-13-84	Amended	595	10-9-84
704 KAR 20:240			806 KAR 15:030	364	
Amended	643	11-13-84	Amended	600	10-9-84
704 KAR 20:245			806 KAR 38:020		
Amended	644	11-13-84	Amended	1079	2-12-85
704 KAR 20:270			806 KAR 39:070	685	
Amended	645	11-13-84	Amended	975	11-13-84
704 KAR 20:285			806 KAR 43:010		
Amended	259	9-11-84	Amended	550	11-13-84
704 KAR 20:290	356	9-11-84	807 KAR 5:001		
704 KAR 20:300	357	9-11-84	Amended	1301	
704 KAR 20:305	672	12-11-84	807 KAR 5:006		
704 KAR 20:310	1230		Amended	790	
705 KAR 2:030			Amended	1048	1-7-85
Amended	1026	12-11-84	807 KAR 5:011		
705 KAR 4:010			Amended	69	8-7-84
Reprint	379	6-28-84	808 KAR 3:050		
Amended	646	11-13-84	Amended	266	9-11-84
705 KAR 4:205	358	9-11-84	808 KAR 11:010		
705 KAR 7:070	359		Amended	168	6-28-84
Amended	593	10-9-84	810 KAR 1:009		
Recodified		11-26-84	Amended	452	11-13-84
706 KAR 1:010			811 KAR 1:070		
Amended	260		Amended	798	12-11-84
Amended	594		811 KAR 1:090		
Amended	700	10-9-84	Amended	455	10-9-84
707 KAR 1:051			811 KAR 1:105		
Amended	186	8-7-84	Amended	457	10-9-84
707 KAR 1:055			811 KAR 1:150		
Amended	194	8-7-84	Amended	458	10-9-84
803 KAR 2:020			Amended	800	12-11-84
Amended	64	8-7-84	811 KAR 1:160		
804 KAR 1:100			Amended	1165	
Amended	994	1-7-85	811 KAR 1:195		
804 KAR 1:110	97	8-7-84	Amended	801	12-11-84
804 KAR 1:120	910	1-7-85	811 KAR 1:210	1008	
804 KAR 2:005			Withdrawn		1-16-85
Amended	67	8-7-84	811 KAR 1:215	1233	
804 KAR 4:240	98	8-7-84	815 KAR 7:010		
804 KAR 4:250	360	9-11-84	Amended	268	9-11-84
804 KAR 4:260	675	11-13-84	Amended	1308	
804 KAR 4:270	1007		815 KAR 7:020		
Amended	1124	2-12-85	Amended	276	9-11-84
804 KAR 7:045			Amended	1317	
Amended	68	8-7-84	815 KAR 7:080	372	9-11-84

# ADMINISTRATIVE REGISTER - 19

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
815 KAR 20:055	911		902 KAR 20:048		
Amended	1258	2-12-85	Amended	824	12-11-84
815 KAR 20:070			902 KAR 20:051		
Amended	73	8-7-84	Amended	832	12-11-84
815 KAR 20:120			902 KAR 20:066		
Amended	74	8-7-84	Amended	476	10-9-84
Amended	802		902 KAR 20:086		
Amended	1259	2-12-85	Amended	1186	
815 KAR 20:150			902 KAR 20:132		
Amended	77	8-7-84	Amended	78	10-9-84
815 KAR 45:050			902 KAR 20:160		
Amended	805	12-11-84	Amended	478	10-9-84
815 KAR 45:060	912	12-11-84	902 KAR 20:190	109	
900 KAR 1:011	102	8-7-84	Amended	397	8-7-84
900 KAR 1:030	103	8-7-84	902 KAR 20:200	914	12-11-84
900 KAR 1:040	103	8-7-84	902 KAR 45:005		
901 KAR 5:050			Amended	482	10-9-84
Amended	78	8-7-84	902 KAR 45:130	112	8-7-84
902 KAR 1:340			902 KAR 45:140	112	8-7-84
Reprint	381		902 KAR 45:150	526	
Amended	608	10-9-84	Amended	700	10-9-84
Recodified		11-9-84	902 KAR 50:010		
902 KAR 4:015	1348		Amended	79	8-7-84
902 KAR 4:030			902 KAR 50:020		
Amended	652	11-13-84	Repealed	115	8-7-84
902 KAR 4:060	104	8-7-84	902 KAR 50:060		
Amended	1323		Repealed	81	8-7-84
902 KAR 4:070	104	8-7-84	902 KAR 50:070		
902 KAR 4:080	105	8-7-84	Amended	81	8-7-84
902 KAR 4:090	105		902 KAR 50:090	112	8-7-84
Amended	395	8-7-84	902 KAR 50:100	114	8-7-84
902 KAR 6:060	374	9-11-84	902 KAR 50:110	115	8-7-84
902 KAR 8:020			902 KAR 100:012		
Amended	653	11-13-84	Amended	1330	
Amended	806	12-11-84	903 KAR 5:130		
Amended	1080	2-12-85	Amended	838	12-11-84
Amended	1166		903 KAR 5:150		
Amended	1324		Amended	1196	
902 KAR 8:030	106	8-7-84	903 KAR 5:260		
Amended	654	11-13-84	Amended	1196	
902 KAR 10:080			Amended	1332	
Amended	409	9-1-84	903 KAR 5:280	1235	
902 KAR 10:110	107	9-11-84	903 KAR 6:040		
902 KAR 12:060	108	8-7-84	Amended	841	12-11-84
902 KAR 12:070	108	8-7-84	903 KAR 6:050		
902 KAR 12:080			Amended	1199	
Amended	279	9-11-84	904 KAR 1:004		
Amended	655	11-13-84	Amended	280	9-11-84
Amended	808	12-11-84	Amended	842	12-11-84
Amended	995	1-7-85	Amended	1201	
Amended	1082	2-12-85	Reprint	1354	
Amended	1168		904 KAR 1:009		
Amended	1325		Amended	1088	2-12-85
902 KAR 13:050			904 KAR 1:011		
Amended	1328		Amended	846	12-11-84
902 KAR 13:100	526	10-9-84	Amended	1205	
902 KAR 17:010			904 KAR 1:013		
Amended	999	1-7-85	Amended	81	8-7-84
902 KAR 17:020	1010	1-7-85	Amended	999	1-7-85
902 KAR 20:006			904 KAR 1:020		
Amended	460	10-9-84	Amended	658	11-13-84
902 KAR 20:008			904 KAR 1:022		
Amended	465		Amended	1089	2-12-85
Amended	730	12-11-84	904 KAR 1:024		
902 KAR 20:016			Amended	1091	2-12-85
Amended	467	10-9-84	904 KAR 1:036		
Amended	1173		Amended	284	9-11-84
902 KAR 20:026			Amended	849	12-11-84
Amended	811	12-11-84	904 KAR 1:039		
902 KAR 20:036			Amended	659	11-13-84
Amended	819	12-11-84	904 KAR 1:045		
902 KAR 20:041			Amended	290	9-11-84
Amended	1183		Amended	1093	
			Amended	1271	



# ADMINISTRATIVE REGISTER - 110

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
904 KAR 1:055			904 KAR 5:030		
Amended	291	9-11-84	Amended	660	11-13-84
Amended	1094	2-12-85	Recodified		11-14-84
904 KAR 1:061			904 KAR 5:040		
Amended	854	12-11-84	Repealed	529	10-9-84
Amended	1334		904 KAR 5:041	529	10-9-84
904 KAR 1:110			904 KAR 5:070		
Amended	1001	1-7-85	Amended	495	10-9-84
904 KAR 1:180			Recodified		10-9-84
Amended	1002	1-7-85	904 KAR 5:080		
904 KAR 1:190			Amended	495	10-9-84
Amended	1003	1-7-85	Recodified		10-9-84
904 KAR 1:250			904 KAR 5:090		
Amended	292	9-11-84	Amended	496	10-9-84
Amended	856	12-11-84	Recodified		10-9-84
Amended	1208		904 KAR 5:100		
904 KAR 1:270	1012	1-7-85	Amended	196	7-10-84
904 KAR 1:280	1013	1-7-85	Recodified		10-5-84
904 KAR 2:006			904 KAR 5:130		
Amended	858	12-11-84	Amended	197	7-10-84
904 KAR 2:015			Recodified		10-5-84
Amended	293	9-11-84	904 KAR 5:160		
904 KAR 2:016			Amended	497	
Amended	82	8-7-84	Amended	702	10-9-84
Amended	860	12-11-84	Recodified		10-9-84
904 KAR 2:020			904 KAR 5:200		
Amended	865	12-11-84	Amended	498	10-9-84
904 KAR 2:050			Recodified		10-9-84
Amended	86	8-7-84	904 KAR 5:210		
904 KAR 2:055			Repealed	530	10-9-84
Amended	296	9-11-84	904 KAR 5:211	530	10-9-84
904 KAR 2:110			904 KAR 5:260		
Amended	1004	1-7-85	Amended	199	7-10-84
904 KAR 2:115			Amended	90	8-7-84
Repealed	957	10-19-84	Amended	303	9-11-84
904 KAR 2:116	916	12-11-84	Amended	498	10-9-84
904 KAR 2:140			Amended	661	11-13-84
Amended	298	9-11-84	Amended	873	12-11-84
Amended	867	12-11-84	Recodified		12-11-84
Amended	1209		904 KAR 5:270	375	9-11-84
904 KAR 2:150			Recodified		10-5-84
Amended	299	9-11-84	904 KAR 6:010		
Amended	868	12-11-84	Amended	500	10-9-84
Amended	1210		Recodified		10-9-84
904 KAR 2:160			904 KAR 6:020		
Amended	300	9-11-84	Amended	304	9-11-84
Recodified		10-5-84	Amended	501	10-9-84
904 KAR 2:170			Amended	663	11-13-84
Amended	301	9-11-84	Recodified		11-14-84
Amended	868	12-11-84	904 KAR 6:030		
Amended	1211		Repealed	376	9-11-84
904 KAR 2:180			904 KAR 6:031	376	9-11-84
Amended	869	12-11-84	904 KAR 6:040		
904 KAR 2:190			Amended	91	8-7-84
Amended	870	12-11-84	Amended	502	10-9-84
904 KAR 2:200			Recodified		10-9-84
Amended	301	9-11-84	904 KAR 6:050		
Amended	871	12-11-84	Amended	503	10-9-84
904 KAR 3:020			Amended	664	11-13-84
Amended	87	8-7-84	Recodified		11-14-84
Amended	1337		905 KAR 1:080		
904 KAR 3:035			Repealed	305	9-11-84
Amended	89	8-7-84	905 KAR 1:170	115	8-7-84
Amended	1340		905 KAR 1:180	116	8-7-84
904 KAR 3:045			Amended	305	9-11-84
Amended	1212		Amended	504	10-9-84
904 KAR 3:050			905 KAR 5:010		
Amended	1342		Amended	91	8-7-84
904 KAR 3:090			905 KAR 5:030	116	8-7-84
Amended	302	9-11-84	905 KAR 6:030	117	8-7-84
Amended	872	12-11-84	905 KAR 7:020	117	8-7-84
Amended	1214		905 KAR 7:030		
			Amended	875	12-11-84



# ADMINISTRATIVE REGISTER - 111

Regulation	11 Ky.R. Page No.	Effective Date
905 KAR 7:050	117	8-7-84
905 KAR 7:080	118	8-7-84
Amended	505	10-9-84
Amended	877	12-11-84
905 KAR 7:090	118	8-7-84
905 KAR 7:100	918	12-11-84
905 KAR 8:020	376	9-11-84
905 KAR 8:060	119	9-11-84
905 KAR 8:070	530	10-9-84
905 KAR 8:120	119	
Amended	414	9-11-84
906 KAR 1:010	119	8-7-84
906 KAR 1:020	120	8-7-84

## KRS INDEX

KRS Section	Regulation	KRS Section	Regulation
12.040	600 KAR 2:040	150.010 (contd.)	301 KAR 2:044
12.080	600 KAR 2:040		301 KAR 2:050
Chapter 13A	1 KAR 1:010		301 KAR 2:140
13A.100	600 KAR 1:030		301 KAR 2:190
13A.130	401 KAR 30:070		301 KAR 2:200
	401 KAR 50:016	150.015	301 KAR 2:044
	402 KAR 3:010		301 KAR 2:180
16.505-16.652	105 KAR 1:010		301 KAR 2:200
	105 KAR 1:080	150.025	301 KAR 1:016
17.250	815 KAR 45:050		301 KAR 1:075
Chapter 18A	600 KAR 1:040		301 KAR 1:082
	600 KAR 1:050		301 KAR 1:140
	600 KAR 2:040		301 KAR 1:160
35.010	106 KAR 1:040		301 KAR 2:050
36.040	106 KAR 1:040		301 KAR 2:140
39.480	106 KAR 1:020		301 KAR 2:190
Chapter 42	109 KAR 9:010		301 KAR 2:200
42.455	601 KAR 35:020	150.090	301 KAR 1:016
Chapter 44	200 KAR 8:030	150.110	301 KAR 1:140
45.750-45.800	1 KAR 3:005	150.120	301 KAR 1:140
Chapter 45A	200 KAR 5:308	150.150	301 KAR 1:160
45A.080	815 KAR 45:050	150.170	301 KAR 1:075
Chapter 61	815 KAR 45:060		301 KAR 1:140
61.510-61.702	105 KAR 1:010		301 KAR 2:050
61.510-61.705	105 KAR 1:080		301 KAR 2:140
61.874	401 KAR 49:010		301 KAR 2:200
78.510-78.852	105 KAR 1:010	150.175	301 KAR 1:075
	105 KAR 1:080		301 KAR 1:082
91A.080	806 KAR 2:090		301 KAR 1:140
	806 KAR 2:095		301 KAR 2:140
	806 KAR 2:096		301 KAR 2:200
	806 KAR 2:097	150.176	301 KAR 2:050
96A.010-96A.370	603 KAR 7:020		301 KAR 2:140
	603 KAR 7:030	150.180	301 KAR 2:190
	603 KAR 7:040	150.183	301 KAR 2:190
96A.090	603 KAR 7:020	150.190	301 KAR 1:140
	603 KAR 7:030	150.235	301 KAR 1:075
96A.095	603 KAR 7:020		301 KAR 2:200
	603 KAR 7:030	150.240	301 KAR 2:200
109.011	401 KAR 49:010	150.250	301 KAR 2:050
109.011-109.280	401 KAR 49:020	150.280	301 KAR 2:190
	401 KAR 49:030	150.290	301 KAR 2:190
	401 KAR 49:040	150.300	301 KAR 2:044
109.041	401 KAR 49:010	150.305	301 KAR 2:044
109.071	401 KAR 49:010		301 KAR 2:140
109.190	401 KAR 49:010		301 KAR 2:190
131.570	903 KAR 5:150		301 KAR 2:200
	903 KAR 5:280	150.320	301 KAR 2:044
136.392	806 KAR 2:100		301 KAR 2:140
138.655-138.725	601 KAR 9:074		301 KAR 2:190
Chapter 141	115 KAR 2:020	150.330	301 KAR 2:044
146.410	400 KAR 2:030		301 KAR 2:140
	400 KAR 2:040		301 KAR 2:190
146.420	400 KAR 2:030		301 KAR 2:200
146.425	400 KAR 2:010	150.340	301 KAR 2:044
146.440	400 KAR 2:030		301 KAR 2:200
	400 KAR 2:040	150.360	301 KAR 1:075
146.460	400 KAR 2:010		301 KAR 1:082
146.465	400 KAR 2:050		301 KAR 2:044
146.470	400 KAR 2:030		301 KAR 2:050
146.480	400 KAR 2:050		301 KAR 2:140
146.490	400 KAR 2:010		301 KAR 2:190
	400 KAR 2:030		301 KAR 2:200
146.505	400 KAR 2:030	150.365	301 KAR 2:140
149.010	402 KAR 3:010	150.390	301 KAR 2:140
149.510	402 KAR 3:010	150.440	301 KAR 1:075
150.010	301 KAR 1:055	150.445	301 KAR 1:075
	301 KAR 1:075	150.450	301 KAR 1:140
	301 KAR 1:160	150.470	301 KAR 1:055
			301 KAR 1:075



## ADMINISTRATIVE REGISTER - 113

KRS Section	Regulation	KRS Section	Regulation
150.600	301 KAR 2:200	161.020 (contd.)	704 KAR 20:070
150.620	301 KAR 1:016		704 KAR 20:076
150.625	301 KAR 1:016		704 KAR 20:078
150.630	301 KAR 2:200		704 KAR 20:080
150.640	301 KAR 1:016		704 KAR 20:085
	301 KAR 2:050		704 KAR 20:090
151.125	401 KAR 4:200		704 KAR 20:120
151.140	401 KAR 4:200		704 KAR 20:145
151.150	401 KAR 4:200		704 KAR 20:150
151.160	401 KAR 4:200		704 KAR 20:159
151.182	401 KAR 4:200		704 KAR 20:210
151.184	401 KAR 4:200		704 KAR 20:222
151.200	401 KAR 4:200		704 KAR 20:230
151.230	401 KAR 4:200		704 KAR 20:235
151.240	401 KAR 4:200		704 KAR 20:240
151.250	401 KAR 4:200		704 KAR 20:245
151.260	401 KAR 4:200		704 KAR 20:270
151.280	401 KAR 4:200		704 KAR 20:285
151.293	401 KAR 4:200		704 KAR 20:290
151.295	401 KAR 4:200		704 KAR 20:300
151.297	401 KAR 4:200	161.025	704 KAR 20:005
151.310	401 KAR 4:200		704 KAR 20:045
156.010	706 KAR 1:010		704 KAR 20:050
156.031	705 KAR 4:010		704 KAR 20:060
	706 KAR 1:010		704 KAR 20:065
156.070	704 KAR 3:340		704 KAR 20:070
	704 KAR 3:355		704 KAR 20:076
156.095	704 KAR 3:035		704 KAR 20:078
156.101	704 KAR 3:325		704 KAR 20:080
	704 KAR 3:345		704 KAR 20:085
156.160	702 KAR 4:050		704 KAR 20:090
	704 KAR 3:304		704 KAR 20:145
	704 KAR 3:305		704 KAR 20:150
	704 KAR 3:340		704 KAR 20:159
	704 KAR 10:022		704 KAR 20:210
156.400-156.476	702 KAR 1:005		704 KAR 20:222
156.495	704 KAR 7:060		704 KAR 20:230
156.611	704 KAR 15:090		704 KAR 20:235
157.100-157.190	702 KAR 1:005		704 KAR 20:240
157.200-157.290	707 KAR 1:051		704 KAR 20:245
157.270	707 KAR 1:055		704 KAR 20:270
157.320	702 KAR 7:050		704 KAR 20:285
157.360	702 KAR 3:190		704 KAR 20:290
	707 KAR 1:051		704 KAR 20:300
	707 KAR 1:055	161.030	704 KAR 20:005
157.390	702 KAR 3:100		704 KAR 20:035
	704 KAR 3:035		704 KAR 20:045
157.420	702 KAR 3:100		704 KAR 20:050
158.030	702 KAR 7:050		704 KAR 20:060
158.060	702 KAR 7:010		704 KAR 20:065
158.070	702 KAR 7:010		704 KAR 20:070
	704 KAR 3:035		704 KAR 20:076
158.140	705 KAR 4:205		704 KAR 20:078
158.148	704 KAR 7:050		704 KAR 20:080
158.240	702 KAR 7:050		704 KAR 20:085
158.650-158.740	701 KAR 5:060		704 KAR 20:090
	704 KAR 3:005		704 KAR 20:120
158.665	704 KAR 3:305		704 KAR 20:145
158.750	704 KAR 3:320		704 KAR 20:150
	704 KAR 3:355		704 KAR 20:159
159.030	707 KAR 1:055		704 KAR 20:210
159.035	702 KAR 7:050		704 KAR 20:222
159.170	702 KAR 7:030		704 KAR 20:230
159.240	702 KAR 7:030		704 KAR 20:235
159.250	702 KAR 7:030		704 KAR 20:240
159.260	702 KAR 7:030		704 KAR 20:245
160.180	702 KAR 1:115		704 KAR 20:270
	702 KAR 1:120		704 KAR 20:285
161.020	704 KAR 20:005		704 KAR 20:290
	704 KAR 20:045		704 KAR 20:300
	704 KAR 20:050		704 KAR 20:305
	704 KAR 20:060		704 KAR 20:310
	704 KAR 20:065		

## ADMINISTRATIVE REGISTER - I14

KRS Section	Regulation	KRS Section	Regulation
161.046	704 KAR 20:300	186.057	601 KAR 35:020
161.100	704 KAR 20:120		601 KAR 35:050
	704 KAR 20:210	186.173	601 KAR 9:013
161.115	704 KAR 20:285	186.560	601 KAR 13:050
161.124	704 KAR 20:035	186A.040	806 KAR 39:070
161.200	702 KAR 7:050	Chapter 189	200 KAR 8:030
162.010	702 KAR 4:050	189.270	601 KAR 1:015
162.060	702 KAR 4:050	189.337	603 KAR 5:050
163.020	705 KAR 4:010	189.338	603 KAR 5:030
163.030	705 KAR 4:010	189A.040	601 KAR 13:050
	705 KAR 7:070	189A.070	601 KAR 13:050
	709 KAR 1:070	190.010-190.080	605 KAR 1:150
163.087	705 KAR 4:010	Chapter 194	902 KAR 17:010
163.140	706 KAR 1:010	194.025	900 KAR 1:011
163.160	706 KAR 1:010		902 KAR 17:020
164.740-164.764	11 KAR 5:020	194.030	900 KAR 1:011
	11 KAR 5:030		900 KAR 1:030
	11 KAR 5:060		902 KAR 16:010
	11 KAR 5:085		903 KAR 6:010
164.740	11 KAR 4:040		903 KAR 6:020
164.744	11 KAR 6:010		903 KAR 6:040
164.748	11 KAR 4:040		903 KAR 6:050
	11 KAR 6:010		904 KAR 1:250
164.753	11 KAR 6:010		904 KAR 2:140
164.780	11 KAR 5:020		904 KAR 2:150
	11 KAR 5:030		904 KAR 2:180
	11 KAR 5:060		904 KAR 2:190
	11 KAR 5:085		904 KAR 2:200
164.785	11 KAR 5:020		904 KAR 3:090
	11 KAR 5:030		905 KAR 1:180
	11 KAR 5:060		906 KAR 1:010
	11 KAR 5:085		906 KAR 1:020
164A.060	15 KAR 1:010	194.040	900 KAR 1:011
Chapter 174	600 KAR 2:040	194.050	900 KAR 1:011
174.080	600 KAR 1:040		902 KAR 4:060
	600 KAR 1:050		902 KAR 17:020
175.450	600 KAR 2:010		904 KAR 2:110
	600 KAR 2:020		904 KAR 2:116
	600 KAR 2:030		904 KAR 3:020
	603 KAR 5:120		904 KAR 3:035
175.470	600 KAR 2:010		904 KAR 3:045
	600 KAR 2:020		904 KAR 3:050
	600 KAR 2:030	194.060	905 KAR 1:180
175.520	600 KAR 2:010	Chapter 196	501 KAR 6:010
	600 KAR 2:020	Chapter 197	501 KAR 6:010
	600 KAR 2:030	Chapter 198B	815 KAR 7:010
176.050	603 KAR 5:120		815 KAR 7:020
	603 KAR 5:150		815 KAR 7:080
	603 KAR 7:060	199.011-199.375	905 KAR 1:180
	603 KAR 7:070	199.420-199.990	905 KAR 1:180
176.240	603 KAR 7:060	200.080-200.120	905 KAR 1:180
	603 KAR 7:070	200.460-200.490	902 KAR 4:070
177.106	603 KAR 5:120	Chapter 202A	905 KAR 7:030
	603 KAR 5:150		905 KAR 7:080
177.230	603 KAR 5:120		905 KAR 7:100
177.240	603 KAR 5:120	Chapter 205	904 KAR 2:140
177.410	603 KAR 5:120	205.010	904 KAR 2:006
177.440	603 KAR 5:120	205.200	902 KAR 16:010
177.830-177.890	603 KAR 4:035		904 KAR 2:006
177.905-177.950	603 KAR 3:051		904 KAR 2:016
177.972	601 KAR 35:020		904 KAR 2:150
177.976	601 KAR 35:020	205.201	905 KAR 8:060
177.977	601 KAR 35:020		905 KAR 8:070
177.979	601 KAR 35:020	205.201-205.204	905 KAR 1:180
	601 KAR 35:040		905 KAR 8:020
177.980	601 KAR 35:040	205.204	905 KAR 8:060
183.120	602 KAR 15:020		905 KAR 8:070
183.200-183.213	602 KAR 15:010	205.210	904 KAR 2:016
183.505	602 KAR 15:020	205.220	904 KAR 2:050
183.764	602 KAR 15:020		904 KAR 2:150
186.021	806 KAR 39:070	205.231	904 KAR 2:055
186.042	601 KAR 9:011		904 KAR 2:150



# ADMINISTRATIVE REGISTER - I15

KRS Section	Regulation	KRS Section	Regulation
205.245	902 KAR 16:010	214.155	902 KAR 4:030
205.455-205.465	904 KAR 2:015	215.520-215.600	902 KAR 20:200
	905 KAR 1:180	Chapter 216A	201 KAR 6:010
	905 KAR 8:020	Chapter 216B	40 KAR 3:010
205.510-205.630	905 KAR 8:120		902 KAR 17:010
205.520	107 KAR 1:040	216B.010-216B.130	902 KAR 20:006
	902 KAR 16:010		902 KAR 20:008
	904 KAR 1:004		902 KAR 20:016
	904 KAR 1:009		902 KAR 20:026
	904 KAR 1:011		902 KAR 20:036
	904 KAR 1:013		902 KAR 20:041
	904 KAR 1:022		902 KAR 20:048
	904 KAR 1:024		902 KAR 20:051
	904 KAR 1:036		902 KAR 20:066
	904 KAR 1:039		902 KAR 20:086
	904 KAR 1:045		902 KAR 20:132
	904 KAR 1:055		902 KAR 20:160
	904 KAR 1:061		902 KAR 20:190
	904 KAR 1:110		902 KAR 20:200
	904 KAR 1:180	216B.015	902 KAR 17:020
	904 KAR 1:190	216B.990	902 KAR 20:006
	904 KAR 1:250		902 KAR 20:008
	904 KAR 1:270		902 KAR 20:016
	904 KAR 1:280		902 KAR 20:026
	904 KAR 2:160		902 KAR 20:036
205.550	904 KAR 1:020		902 KAR 20:041
205.560	904 KAR 1:020		902 KAR 20:048
	904 KAR 1:110		902 KAR 20:051
205.795	904 KAR 2:020		902 KAR 20:066
	904 KAR 2:170		902 KAR 20:086
Chapter 208	905 KAR 1:180		902 KAR 20:132
	905 KAR 7:030		902 KAR 20:160
	905 KAR 7:050		902 KAR 20:190
	905 KAR 7:080		902 KAR 20:200
208.400	905 KAR 7:020	Chapter 217	201 KAR 2:135
208.410	905 KAR 7:020		201 KAR 2:190
	905 KAR 7:100	217.005-217.215	902 KAR 45:130
208.530	905 KAR 7:020		902 KAR 45:140
Chapter 209	905 KAR 1:180		902 KAR 50:090
209.030	905 KAR 5:010	217.808-217.812	902 KAR 45:140
	905 KAR 5:030	217.992	902 KAR 45:130
209.160	905 KAR 5:010		902 KAR 45:140
Chapter 210	902 KAR 12:080		902 KAR 50:090
210.290	900 KAR 1:040	217C.010-217C.990	902 KAR 50:010
210.370-210.460	902 KAR 6:060		902 KAR 50:070
210.700-210.760	902 KAR 12:060		902 KAR 50:100
	902 KAR 12:070		902 KAR 50:110
	905 KAR 7:090	219.011-219.081	902 KAR 45:005
211.090	902 KAR 4:015		902 KAR 45:140
211.170	902 KAR 8:030	219.991	902 KAR 45:005
211.180	902 KAR 4:015	222.210	902 KAR 20:086
	902 KAR 4:060	Chapter 223	401 KAR 6:040
	902 KAR 4:080	223.170	401 KAR 6:200
	902 KAR 45:150	223.180	401 KAR 6:200
211.350-211.380	902 KAR 10:080	223.190	401 KAR 6:200
	902 KAR 10:110	223.210	401 KAR 6:200
211.840-211.852	902 KAR 100:012	Chapter 224	401 KAR 5:029
211.900	902 KAR 4:090		401 KAR 5:031
211.905	902 KAR 4:090		401 KAR 5:050
211.960-211.968	902 KAR 13:050		401 KAR 5:055
211.964	902 KAR 13:100		401 KAR 5:060
211.990	902 KAR 10:080		401 KAR 5:065
	902 KAR 10:110		401 KAR 5:070
	902 KAR 100:012		401 KAR 50:015
211.994	902 KAR 4:090		401 KAR 59:212
Chapter 212	902 KAR 8:020		401 KAR 61:165
212.170	902 KAR 8:030	224.005	401 KAR 30:070
212.210	902 KAR 45:150		401 KAR 47:020
212.870	902 KAR 8:030		401 KAR 47:050
212.990	902 KAR 45:150		401 KAR 49:010
Chapter 213	901 KAR 5:050	224.011	401 KAR 5:026
213.190	905 KAR 1:170		401 KAR 5:200

# ADMINISTRATIVE REGISTER - I16

KRS Section	Regulation	KRS Section	Regulation
224.020	401 KAR 5:026	224.330 (contd.)	401 KAR 59:213
	401 KAR 5:200		401 KAR 59:216
224.032	401 KAR 6:200		401 KAR 59:221
224.033	401 KAR 5:200		401 KAR 59:275
	401 KAR 30:010		401 KAR 59:280
	401 KAR 30:070		401 KAR 59:300
	401 KAR 32:020		401 KAR 59:305
	401 KAR 32:100	224.340	401 KAR 50:016
224.034	401 KAR 5:200		401 KAR 57:011
224.037	401 KAR 5:200		401 KAR 57:035
224.060	401 KAR 5:026		401 KAR 57:040
	401 KAR 5:200		401 KAR 59:036
224.071	401 KAR 32:020		401 KAR 59:049
	401 KAR 32:050		401 KAR 59:099
224.073	401 KAR 5:200		401 KAR 59:131
224.075	401 KAR 5:200		401 KAR 59:136
224.081	401 KAR 5:200		401 KAR 59:141
224.083	401 KAR 5:200		401 KAR 59:146
224.110	401 KAR 5:200		401 KAR 59:171
224.135	401 KAR 5:010		401 KAR 59:196
	401 KAR 5:200		401 KAR 59:201
224.140	401 KAR 5:200		401 KAR 59:213
224.144	401 KAR 5:200		401 KAR 59:216
224.2201	410 KAR 1:010		401 KAR 59:221
	410 KAR 1:020		401 KAR 59:275
224.2203	410 KAR 1:010		401 KAR 59:280
	410 KAR 1:020		401 KAR 59:300
224.2207	410 KAR 1:010		401 KAR 59:305
	410 KAR 1:020	224.830-224.860	401 KAR 47:020
224.2209	410 KAR 1:010	224.830-224.877	401 KAR 47:050
	410 KAR 1:020		401 KAR 31:040
224.2211	410 KAR 1:010		401 KAR 31:160
	410 KAR 1:020		401 KAR 31:170
224.2213	410 KAR 1:010		401 KAR 32:020
	410 KAR 1:020		401 KAR 32:050
224.2215	410 KAR 1:010		401 KAR 32:100
	410 KAR 1:020	224.830-224.889	401 KAR 30:070
224.320	401 KAR 50:016	224.835	401 KAR 30:010
	401 KAR 57:011		401 KAR 49:010
	401 KAR 57:035		401 KAR 49:020
	401 KAR 57:040		401 KAR 49:030
	401 KAR 59:036		401 KAR 49:040
	401 KAR 59:049	224.842	401 KAR 49:010
	401 KAR 59:099		401 KAR 49:020
	401 KAR 59:131		401 KAR 49:030
	401 KAR 59:136	224.846	401 KAR 30:010
	401 KAR 59:141	224.855	410 KAR 1:010
	401 KAR 59:146		410 KAR 1:020
	401 KAR 59:171	224.855-224.889	401 KAR 30:010
	401 KAR 59:196	224.864	410 KAR 1:010
	401 KAR 59:201		410 KAR 1:020
	401 KAR 59:213	224.866	410 KAR 1:010
	401 KAR 59:216		410 KAR 1:020
	401 KAR 59:221	224.868	401 KAR 47:020
	401 KAR 59:275		401 KAR 47:050
	401 KAR 59:280	224.869	401 KAR 47:020
	401 KAR 59:300		401 KAR 47:050
	401 KAR 59:305	224.887	401 KAR 49:010
224.330	401 KAR 50:016		401 KAR 49:020
	401 KAR 57:011		401 KAR 49:030
	401 KAR 57:035		401 KAR 49:040
	401 KAR 57:040	224.888	401 KAR 49:010
	401 KAR 59:036		401 KAR 49:020
	401 KAR 59:049		401 KAR 49:030
	401 KAR 59:099		401 KAR 49:040
	401 KAR 59:131	224.994	401 KAR 30:070
	401 KAR 59:136		401 KAR 31:040
	401 KAR 59:141		401 KAR 31:160
	401 KAR 59:146		401 KAR 31:170
	401 KAR 59:171		401 KAR 32:020
	401 KAR 59:196		401 KAR 32:050
	401 KAR 59:201		401 KAR 32:100
			401 KAR 47:020
			401 KAR 47:050



# ADMINISTRATIVE REGISTER - I17

KRS Section	Regulation	KRS Section	Regulation
224.995	401 KAR 47:020	251.451	302 KAR 34:020
230.210-230.360	810 KAR 1:009	251.610	302 KAR 34:010
230.620	811 KAR 1:150	251.640	302 KAR 34:010
230.630	811 KAR 1:070	251.720	302 KAR 34:020
	811 KAR 1:090	257.020	302 KAR 20:150
	811 KAR 1:105		302 KAR 20:180
	811 KAR 1:150	257.030	302 KAR 20:180
	811 KAR 1:160	260.755-260.845	12 KAR 5:020
230.640	811 KAR 1:070		12 KAR 5:030
	811 KAR 1:090		12 KAR 5:040
	811 KAR 1:105	260.992	12 KAR 5:020
	811 KAR 1:150		12 KAR 5:030
	811 KAR 1:160		12 KAR 5:040
230.650	811 KAR 1:150	273.410-273.468	905 KAR 6:030
230.660	811 KAR 1:150	Chapter 278	807 KAR 5:001
230.700	811 KAR 1:070		807 KAR 5:006
	811 KAR 1:090		807 KAR 5:011
230.710	811 KAR 1:070	280.010-280.130	603 KAR 5:061
230.720	811 KAR 1:105	290.070	808 KAR 3:050
230.730	811 KAR 1:105	290.100	808 KAR 3:050
230.750	811 KAR 1:195	290.225	808 KAR 3:050
230.770	811 KAR 1:215	290.585	808 KAR 3:050
235.040	402 KAR 4:030	290.715	808 KAR 3:050
235.050	402 KAR 4:030	304.2-100	806 KAR 15:030
235.150	402 KAR 4:030	304.2-165	806 KAR 12:090
235.240	402 KAR 4:190	304.2-290	806 KAR 6:070
235.280	402 KAR 4:190	304.3-200	806 KAR 12:090
235.300	402 KAR 4:190	304.4-010	806 KAR 2:095
241.060	804 KAR 4:240		806 KAR 2:097
	804 KAR 9:050	304.6-070	806 KAR 6:080
241.065	804 KAR 9:050	304.6-130-304.6-180	806 KAR 6:070
241.075	804 KAR 9:050	304.6-140	806 KAR 6:060
243.030	804 KAR 4:260	304.6-145	806 KAR 6:060
	804 KAR 7:045	304.6-180	806 KAR 6:060
	804 KAR 9:050	304.7-240	806 KAR 15:010
243.040	804 KAR 4:260		806 KAR 15:030
243.230	804 KAR 4:270	304.9-105	806 KAR 9:180
243.260	804 KAR 4:250	304.9-160	806 KAR 9:180
243.290	804 KAR 4:250		806 KAR 15:010
244.050	804 KAR 1:120	304.9-320	806 KAR 9:180
244.130	804 KAR 1:100	304.9-430	806 KAR 9:180
	804 KAR 1:120	304.12-010	806 KAR 12:090
	804 KAR 2:005	304.12-020	806 KAR 15:030
244.240	804 KAR 1:110		806 KAR 39:070
	804 KAR 1:120	304.12-030	806 KAR 15:030
244.440	804 KAR 4:240	304.12-080	806 KAR 2:096
244.500	804 KAR 1:120	304.12-085	806 KAR 12:110
244.590	804 KAR 2:005	304.12-090	806 KAR 2:096
247.232	302 KAR 16:010	304.12-220	806 KAR 12:090
	302 KAR 16:020	304.12-230	806 KAR 12:090
	302 KAR 16:030	304.13-063	601 KAR 13:040
	302 KAR 16:040	304.14-120	806 KAR 15:030
247.234	302 KAR 16:010	304.15-115	806 KAR 15:030
	302 KAR 16:020	304.15-130	806 KAR 15:030
	302 KAR 16:030	304.15-342	806 KAR 6:060
	302 KAR 16:040		806 KAR 12:110
	302 KAR 16:050	304.15-390	806 KAR 15:010
247.236	302 KAR 16:020		806 KAR 15:030
	302 KAR 16:040	304.15-410	806 KAR 6:060
250.366	12 KAR 4:080		806 KAR 6:070
	12 KAR 4:090	304.17-275	806 KAR 6:080
	12 KAR 4:100	304.20-070	806 KAR 12:090
	12 KAR 4:120	304.20-150-304.20-180	806 KAR 12:090
	12 KAR 4:130	304.29-590	806 KAR 12:090
	12 KAR 4:160	304.32-180	806 KAR 9:180
	12 KAR 4:170	304.32-270	806 KAR 12:090
250.391	12 KAR 4:130	304.38-110	806 KAR 9:180
250.396	12 KAR 4:130		806 KAR 38:020
	12 KAR 4:140	304.38-200	806 KAR 12:090
250.401	12 KAR 4:130	304.39-070	806 KAR 12:090
250.406	12 KAR 4:110	304.39-080	806 KAR 39:070
250.411	12 KAR 4:170	304.39-085	806 KAR 39:070

# ADMINISTRATIVE REGISTER - I18

KRS Section	Regulation	KRS Section	Regulation
304.43-080	806 KAR 9:180	341.440	903 KAR 5:130
	806 KAR 43:010		903 KAR 5:280
304.43-130	806 KAR 12:090	341.450	903 KAR 5:130
311.271	201 KAR 9:021		903 KAR 5:280
311.530-311.610	201 KAR 9:024	341.500	903 KAR 5:160
311.530-311.620	201 KAR 9:018	341.510	903 KAR 5:160
	201 KAR 9:021	341.530	903 KAR 5:070
	201 KAR 9:023		903 KAR 5:080
	201 KAR 9:025	346.130	107 KAR 1:040
	201 KAR 9:031	346.140	107 KAR 1:040
	201 KAR 9:041	Chapter 350	405 KAR 7:020
	201 KAR 9:051	350.010	405 KAR 7:030
	201 KAR 9:061	350.020	405 KAR 10:035
	201 KAR 9:071	350.028	405 KAR 7:030
	201 KAR 9:081	350.057	405 KAR 7:030
	201 KAR 9:082	350.060	405 KAR 7:030
311.990	201 KAR 9:018		405 KAR 10:035
	201 KAR 9:021		601 KAR 35:020
	201 KAR 9:023	350.062	405 KAR 10:035
	201 KAR 9:024		405 KAR 16:020
	201 KAR 9:025	350.064	405 KAR 10:035
	201 KAR 9:031	350.068	405 KAR 10:035
	201 KAR 9:041	350.093	405 KAR 16:020
	201 KAR 9:051	350.100	405 KAR 16:020
	201 KAR 9:061	350.110	405 KAR 16:020
	201 KAR 9:071	350.151	405 KAR 7:030
	201 KAR 9:081		405 KAR 10:035
	201 KAR 9:082		405 KAR 18:120
314.011	201 KAR 20:210	350.405	405 KAR 16:020
	201 KAR 20:220	350.410	405 KAR 16:020
314.073	201 KAR 20:210	350.430	405 KAR 7:070
	201 KAR 20:220		405 KAR 16:120
Chapter 315	201 KAR 2:040		405 KAR 18:120
	201 KAR 2:190	350.435	405 KAR 16:020
Chapter 318	815 KAR 20:055	350.450	405 KAR 16:020
	815 KAR 20:070	350.465	405 KAR 7:030
	815 KAR 20:120		405 KAR 10:035
	815 KAR 20:150		405 KAR 16:020
321.350	201 KAR 16:010	351.175	601 KAR 35:020
322.360	815 KAR 45:050	351.350	805 KAR 4:087
323.050	201 KAR 19:035		805 KAR 4:110
323.060	201 KAR 19:035	351.380	405 KAR 7:070
323.095	201 KAR 19:095	351.990	805 KAR 4:087
323.120	201 KAR 19:095		805 KAR 4:110
324.142	201 KAR 11:180	353.520	805 KAR 1:110
326.020	201 KAR 13:040	Chapter 424	400 KAR 2:050
	201 KAR 13:050	Chapter 439	501 KAR 6:010
327.010	201 KAR 22:010	HB 38	115 KAR 2:020
327.040	201 KAR 22:106	HB 295, 1982	1 KAR 3:005
	201 KAR 22:110	SB 20	601 KAR 13:050
327.050	201 KAR 22:020	SB 107	601 KAR 1:015
	201 KAR 22:031	SB 238	603 KAR 7:050
	201 KAR 22:040	c. 184, 1982 Acts	603 KAR 7:050
327.060	201 KAR 22:031	c. 344, 1984 Acts	600 KAR 1:070
	201 KAR 22:070	c. 406, 1984 Acts	600 KAR 1:070
327.070	201 KAR 22:052	c. 418, 1984 Acts	603 KAR 8:010
327.080	201 KAR 22:031	Ex. Order 80-125	402 KAR 4:190
327.090	201 KAR 22:052		
335.010-335.150	201 KAR 23:030		
Chapter 338	803 KAR 2:020		
341.005-341.990	903 KAR 5:260		
341.260	903 KAR 5:030		
341.275	903 KAR 5:200		
341.282	903 KAR 5:200		
341.350	903 KAR 5:090		
	903 KAR 5:100		
341.360	903 KAR 5:090		
341.370	903 KAR 5:070		
	903 KAR 5:080		
341.380	903 KAR 5:100		
	903 KAR 5:270		
341.410	903 KAR 5:150		



## SUBJECT INDEX

**AERONAUTICS**

Airport Development  
Loans; 602 KAR 15:010  
State aid; 602 KAR 15:020 and E

**AGRICULTURAL EXPERIMENT STATION**

Fertilizer; 12 KAR 4:080 to 12 KAR 4:170  
Milk, cream; 12 KAR 5:020 to 12 KAR 5:040

**AGRICULTURE**

Amusement Rides  
Licensing fee; 302 KAR 16:050 and E  
Operation; 302 KAR 16:020 and E  
Operating permit; 302 KAR 16:010 and E  
Safety violations; 302 KAR 16:030 and E; 302 KAR 16:040 and E  
Grain Insurance, Grain Dealers  
Bonding requirements; 302 KAR 34:020 and E  
Definitions; 302 KAR 34:010 and E  
Livestock Sanitation  
Communicable disease, restriction of transportation; 302 KAR 20:150 and E  
Equine movement; 302 KAR 20:170 and E  
Viral equine arteritis; 302 KAR 20:160 and E; 302 KAR 20:180 & E

**AIRCRAFT, STATE**

Use of, air transport; 106 KAR 1:040

**AIR POLLUTION**

Existing Source Standards  
Aluminum reduction plants; 401 KAR 61:165  
General Administrative Procedures  
Reference documents; 401 KAR 50:015; 401 KAR 50:016 and E  
Hazardous Pollutants  
Asbestos standards; 401 KAR 57:011  
Benzene leaks; 401 KAR 57:040  
Equipment leaks; 401 KAR 57:035  
New Source Standards  
Beverage can coating; 401 KAR 59:216  
Bulk gasoline terminals; 401 KAR 59:099  
Diammonium phosphate plants; 401 KAR 59:141  
Grain elevators; 401 KAR 59:275  
Graphic arts facilities; rotogravure, flexography; 401 KAR 59:212  
Large appliance coating; 401 KAR 59:201  
Lime plants; 401 KAR 59:171  
Metal coil coating; 401 KAR 59:221  
Metal furniture coating; 401 KAR 59:196  
Petroleum refinery equipment leaks; 401 KAR 59:049  
Pressure sensitive tape, label surface coating; 401 KAR 59:300  
Publication, rotogravure printing; 401 KAR 59:213  
Sulfuric acid manufacturing plants; 401 KAR 59:036  
Superphosphoric acid plants; 401 KAR 59:136  
Synthetic fiber production facilities; 401 KAR 59:280  
Synthetic organic chemical manufacturing industry equipment leaks; 401 KAR 59:305  
Triple superphosphate plants; 401 KAR 59:146  
Wet process phosphoric acid plants; 401 KAR 59:131

**ALCOHOLIC BEVERAGE CONTROL**

Advertising Distilled Spirits  
General advertising practices; 804 KAR 1:100  
Rebates, gift certificates; 804 KAR 1:120  
Wine tastings; 804 KAR 1:110

**ALCOHOLIC BEVERAGE CONTROL (cont'd)**

Advertising Malt Beverages  
Outside signs; 804 KAR 2:005  
Licensing  
Brand registration; 804 KAR 4:240; 804 KAR 4:250  
Horse race track; 804 KAR 4:260  
Substantial part/staple groceries; 804 KAR 4:270  
Quotas  
Retail drink liquor license; 804 KAR 9:050 and E  
Retail Premises  
Convention center; 804 KAR 7:045

**AMUSEMENT RIDES**

(See AGRICULTURE)

**ARCHITECTS**

Examination qualifications; 201 KAR 19:035  
Standards, violations, penalties; 201 KAR 19:095

**ATTORNEY GENERAL**

Sexual offense victims, payment schedule; 40 KAR 3:010 and E

**CAPITAL CONSTRUCTION**

Committee, procedures, records; 1 KAR 3:005

**CHILDREN'S SERVICES**

(See HEALTH SERVICES)

**CONSUMER PROTECTION**

Recreational, retirement use land; disclosure of costs; 40 KAR 2:010

**CORRECTIONS**

Office of the Secretary  
Policies and procedures; 501 KAR 6:010 and E

**CRIME VICTIMS COMPENSATION BOARD**

Medical Assistance Act, cooperation; 107 KAR 1:030

**DEVELOPMENT FINANCE**

Area development fund; 109 KAR 9:010 and E

**DISASTER, EMERGENCY SERVICES**

Fund; 106 KAR 1:020

**EDUCATION**

Exceptional  
Exceptional, handicapped; programs for; 707 KAR 1:051; 707 KAR 1:055  
Instruction  
Elementary, secondary; 704 KAR Chapter 10  
Instructional services; 704 KAR Chapter 3  
Private, parochial schools; 704 KAR Chapter 6  
Student services; 704 KAR Chapter 7  
Teacher certification; 704 KAR Chapter 20  
Teacher education; 704 KAR Chapter 15  
Local Services  
Buildings, grounds; 702 KAR Chapter 4  
School district finance; 702 KAR Chapter 3  
School terms, attendance, operation; 702 KAR Chapter 7  
Textbook program plan; 702 KAR 1:005  
Office of the Superintendent  
State testing program, code of ethics; 701 KAR 5:060  
Pupil Personnel Services  
Food service programs; 703 KAR Chapter 1  
Terms, attendance, operation; 703 KAR Chapter 2



**EDUCATION (cont'd)**

Vocational Education

Adult education; 705 KAR Chapter 7  
Instructional programs; 705 KAR Chapter 4  
Vocational Rehabilitation  
Administration; 706 KAR Chapter 1

**EDUCATION, LOCAL SERVICES**

Buildings, Grounds

Sites; inspection, approval; 702 KAR 4:050  
Contract; architect, engineer; 702 KAR 4:030

School District Finance

Class sizes; 702 KAR 3:190  
Data; 702 KAR 3:100

School Terms, Attendance, Operation

Census; 702 KAR 7:030  
Textbook program plan; 702 KAR 1:005

**EMPLOYEES, STATE**

Retirement

Contributions, interest rates; 105 KAR 1:010

**EMPLOYMENT SERVICES**

(Recodified to Title 903, 10-9-84)

Program Administration, Technical Services

Job training partnership act; 903 KAR 6:040;  
904 KAR 6:040 and E

Occupational training, experience project; 904  
KAR 6:030E

Repeal; 904 KAR 6:031

Veterans' benefits; 903 KAR 6:050 and E

Weatherization assistance, low income; 904 KAR  
6:020 and E

Work incentive; 904 KAR 6:010 and E

Unemployment Insurance

Appeals; 903 KAR 5:130; 904 KAR 5:130E

Benefits, financing; 904 KAR 5:200

Determination defined; 903 KAR 5:150 & E

Employer contributions; 904 KAR 5:030

Fund payments; 904 KAR 5:160

Labor dispute; 904 KAR 5:090

Notice of income tax refund intercept, appeals;  
903 KAR 5:280 & E

Procedures; 904 KAR 5:260 and E

Protesting claim; 904 KAR 5:080

Repeal; 904 KAR 5:041; 904 KAR 5:211

Reporting requirements; 904 KAR 5:100E

Separation for cause; 904 KAR 5:070

Weekly benefit rates; 904 KAR 5:270 and E

**ENERGY**

Alternate energy development; 115 KAR 2:020

**ENVIRONMENTAL PROTECTION**

(Also see NATURAL RESOURCES)

Hazardous substance designation, spill  
notification; 401 KAR 100:020

**EXCEPTIONAL, HANDICAPPED**

**EDUCATION**

Home, hospital instruction; 707 KAR 1:055  
Programs; 707 KAR 1:051

**FERTILIZER**

Analysis, guaranteed; 12 KAR 4:090

Chlorine, maximum guarantee; 12 KAR 4:170

Investigational allowances; 12 KAR 4:130

Nutrients, guaranteed; 12 KAR 4:160

Nutrients, plant; 12 KAR 4:080

Nutrients, slowly released; 12 KAR 4:100

Penalties, monetary; 12 KAR 4:140

Percentage; 12 KAR 4:120

Sampling procedures; 12 KAR 4:150

Terms, definitions; 12 KAR 4:110

**FINANCE, ADMINISTRATION**

Accounts; allocation of driving under the  
influence fees; 200 KAR 8:030 and E

KERS; 105 KAR 1:010; 105 KAR 1:080

Purchasing; 200 KAR 5:308

**FINANCIAL INSTITUTIONS**

Thrift Institutions

Conduct; 808 KAR 3:050

**FIRE DEPARTMENTS, LOCAL**

(See HOUSING, BUILDINGS AND CONSTRUCTION)

**FISH, WILDLIFE**

Fish

Angling; limits, seasons; 301 KAR 1:055

Commercial permit; 301 KAR 1:140 and E

Frog seasons, limits; 301 KAR 1:082

Gigging, etc.; 301 KAR 1:075

Private camps, boat docks, etc.; 301 KAR 1:016

Stock procedures, fees, private waters; 301 KAR  
1:160

Game

Falconry, raptor propagation; 301 KAR 2:190

Hunter education; 301 KAR 2:180

Land Between the Lakes hunting rules; 301 KAR  
2:050

Migratory bird hunting seasons; 301 KAR 2:200  
and E

Migratory wildlife; 301 KAR 2:044 and E

Wild turkey; spring gun, archery season; 301  
KAR 2:140

**FOOD STAMP PROGRAM**

(See SOCIAL INSURANCE)

**FORESTRY**

Reference material; 402 KAR 3:010 and E

**GENERAL GOVERNMENT**

Occupations, professions; various; Title 201

**GRAIN INSURERS, GRAIN DEALERS**

(See AGRICULTURE)

**HEALTH PLAN**

(See State Health Plan)

**HEALTH SERVICES**

Certificate of Need and Licensure

Chemical dependency treatment; 902 KAR 20:160

Day health care; 902 KAR 20:066

Expenditure minimums; 902 KAR 20:132

Family care homes; 902 KAR 20:041

Hospitals; 902 KAR 20:016

Intermediate care; 902 KAR 20:051

License, fees; 902 KAR 20:008

Long term care; 902 KAR 20:200

Mentally retarded, developmentally disabled;  
intermediate care facilities; 902 KAR 20:086

Nursing homes; 902 KAR 20:048

Personal care homes; 902 KAR 20:036

Process; 902 KAR 20:006 and E

Rehabilitation agency services; 902 KAR 20:190

Skilled nursing facilities; 902 KAR 20:026

Emergency Medical Technicians

Certificates, emergency extension; 902 KAR  
13:100 and E

Training, examination, certification; 902 KAR  
13:050

Food and Cosmetics

Evaluation, standardization procedures; 902  
KAR 45:140 and E

Food service code; 902 KAR 45:005

Inspector's manual for state food and drug  
officials; 902 KAR 45:130 and E

School sanitation; 902 KAR 45:150



**HEALTH SERVICES (cont'd)****Local Health Departments**

Merit system; 902 KAR 8:030 and E  
Policies, procedures; 902 KAR 8:020 and E

**Maternal and Child Health**

Crippled children; 902 KAR 4:070 and E  
Disabled children; 902 KAR 4:080 and E  
Family planning program; 902 KAR 4:050E  
Inborn errors of metabolism, tests; 902 KAR 4:030

Lead poisoning prevention; 902 KAR 4:090  
Nurse Midwifery; 902 KAR 4:015 and E  
WIC; 902 KAR 4:060 and E

**Mental Health-Mental Retardation Boards**

Manuals; 902 KAR 6:060

**Mentally Ill/Mentally Retarded**

"Means test"; 902 KAR 12:070 and E  
Per diem rate; 902 KAR 12:060 and E  
Policies, procedures; 902 KAR 12:080 and E

**Milk and Milk Products**

Adulteration; 902 KAR 50:090 and E  
Definitions; 902 KAR 50:010  
Grade A standards; 902 KAR 50:110 and E  
Sanitation ratings; 902 KAR 50:100 and E  
Standards of identity; 902 KAR 50:070

**Radiology**

Fee schedule; 902 KAR 100:012

**Sanitation**

Onsite sewage disposal; 902 KAR 10:080; 902 KAR 10:110

State health plan; 902 KAR 1:340E; 902 KAR 17:010; 902 KAR 17:020

**HIGHER EDUCATION****ASSISTANCE AUTHORITY****Authority**

Educational institution participation requirements; 11 KAR 4:040

**Grant Programs**

Award determination; 11 KAR 5:060  
Definitions; 11 KAR 5:020  
Eligibility requirements; 11 KAR 5:030  
Pell grant application; 11 KAR 5:085

**Work Study Program**

Program; 11 KAR 6:010

**HIGHER EDUCATION STUDENT****LOAN CORPORATION****Guaranteed Student Loans**

Applicants' qualifications; 15 KAR 1:010

**HIGHWAYS****Maintenance**

Recyclers; 603 KAR 3:051

**Mass Transportation**

Capital assistance program; 603 KAR 7:040 and E  
Carpool project; 603 KAR 7:070 and E  
Elderly, handicapped program; 603 KAR 7:030 and E

Local rail service program; 603 KAR 7:050 and E  
Non-urbanized program; 603 KAR 7:020 and E  
Urbanized area planning; 603 KAR 7:060 and E

**Scholarship Program**

Program; 603 KAR 8:010

**Traffic**

Access control; 603 KAR 5:120  
Building material, hauling; 603 KAR 5:130 and E  
Encroachment permits; 603 KAR 15:150  
Hauling materials; 603 KAR 5:140  
Intrastate toll bridges, ferries; 603 KAR 5:061  
Red signal, turn prohibitions; 603 KAR 5:030  
Traffic signal installations; 603 KAR 5:160  
Uniform traffic control devices; 603 KAR 5:050

**HOUSING, BUILDINGS AND CONSTRUCTION****Building Code**

Administration, enforcement; 815 KAR 7:010  
Building code; 815 KAR 7:020  
Sprinkler contractors; 815 KAR 7:080 and E

**Fire Departments, Local**

Survivor benefits; 815 KAR 45:060  
Training facility grants; 815 KAR 45:050

**Plumbing**

Fixtures; 815 KAR 20:070  
Inspection, tests; 815 KAR 20:150  
Water heater devices; 815 KAR 20:055  
Water supply; 815 KAR 20:120

**HUMAN RESOURCES****Administrative Services**

Post-audit appeal; 900 KAR 1:011 and E  
Vital statistics; 901 KAR 5:050

**Employment Services (Recodified to Title 903, 10-9-84)**

Program administration, technical services; 904 KAR 6:010 to 904 KAR 6:050  
Unemployment insurance; 903 KAR 5:030 to 904 KAR 5:270

**Health Services**

Certificate of need and licensure; 902 KAR Chapter 20

Emergency medical technicians; 902 KAR 13:100 and E

Food, cosmetics; 902 KAR Chapter 45

Local health departments; 902 KAR Chapter 8

Maternal, child health; 902 KAR Chapter 4

Mental health-mental retardation boards; 902 KAR 6:060

Mentally ill/mentally retarded; 902 KAR Chapter 12

Milk, milk products; 902 KAR Chapter 50

Radiology; 902 KAR Chapter 100

Sanitation; 902 KAR Chapter 10

State health plan; 902 KAR 1:340E; 902 KAR 17:010; 902 KAR 17:020

**Inspector General**

Audits; 906 KAR 1:010 and E

Licensing, regulation; 906 KAR 1:020 and E

**Ombudsman's Office**

Complaint review; 900 KAR 1:030 and E  
Guardianship responsibilities; 900 KAR 1:040 and E

**Social Insurance**

Food stamp program; 904 KAR Chapter 3

Medical assistance; 904 KAR Chapter 1

Public assistance; 904 KAR Chapter 2

**Social Services**

Aging services; 905 KAR 8:010 to 905 KAR 8:130

Child welfare; 905 KAR 1:150 to 905 KAR 1:180

Children's residential services; 905 KAR 7:010 to 905 KAR 7:100

Community action agencies; 905 KAR 6:020 to 905 KAR 6:030

Spouse abuse, crisis centers; 905 KAR 5:010 to 905 KAR 5:030

**INSTRUCTION****Elementary, Secondary**

Standards; 704 KAR 10:022

**Instructional Services**

Annual in-service plan; 704 KAR 3:035

Diploma program; 704 KAR 3:340

Educational Improvement Act; 704 KAR 3:005

Essential skills; 704 KAR 3:320

Essential skills remediation; 704 KAR 3:355

Evaluation guidelines; 704 KAR 3:345

High school graduation, minimum requirements; 704 KAR 3:305

Industrial leadership act; 704 KAR 3:325



**INSTRUCTION (cont'd)**

Mathematics, reading; 704 KAR 3:320  
 Program of studies; 704 KAR 3:304  
 Private, Parochial Schools  
 Repeal; 704 KAR 6:011  
 Student Services  
 Discipline guidelines; 704 KAR 7:050  
 Missing children program; 704 KAR 7:060  
 Teacher Certification  
 Certification, adjunct instructor; 704 KAR 20:300  
 Certification, elementary; 704 KAR 20:085; 704 KAR 20:090; 704 KAR 20:290  
 Certification, information deleted; 704 KAR 20:285  
 Certification, middle grades; 704 KAR 20:076; 704 KAR 20:078, 704 KAR 20:080  
 Emergency certificate; 704 KAR 20:120  
 Exceptional children; 704 KAR 20:270  
 Hearing impaired; 704 KAR 20:230  
 Industrial education; 704 KAR 20:222  
 Internship program; 704 KAR 20:045  
 Learning disorders; 704 KAR 20:235  
 Media librarians; 704 KAR 20:145  
 Media specialists; 704 KAR 20:150  
 Music; 704 KAR 20:159  
 Out-of-state preparation; 704 KAR 20:035  
 Preparation program approval; 704 KAR 20:005  
 Provisional certification; 704 KAR 20:070; 704 KAR 20:080  
 Renewals; 704 KAR 20:060  
 Speech disorders; 704 KAR 20:240  
 Standard high school certificate; 704 KAR 20:065  
 Substitute teachers; 704 KAR 20:210  
 Testing prerequisites; 704 KAR 20:045  
 Time limit; 704 KAR 20:050  
 Trainable mentally handicapped; 704 KAR 20:245  
 Vocational teachers; examination; internship prerequisites; 704 KAR 20:310 & E  
 Written examination prerequisites; 704 KAR 20:305  
 Teacher Education  
 Incentive loan program, math and science; 704 KAR 15:090

**INSURANCE**

Administration  
 Accounting, reporting requirements; 806 KAR 2:095  
 Fee; city, urban insurance tax; 806 KAR 2:090  
 KRS 136.392 surcharge; 806 KAR 2:100  
 Municipal premium taxes; 806 KAR 2:096; 806 KAR 2:097  
 Agents, Consultants, Solicitors, Adjusters  
 Valid period of examination results; 806 KAR 9:180  
 Assets, Liabilities  
 Reserve liabilities; 806 KAR 6:060  
 Reserve standards; 806 KAR 6:080  
 Valuation; 806 KAR 6:070  
 Contracts, Life, Annuity  
 Variable life; 806 KAR 15:030  
 Variable annuity; 806 KAR 15:010  
 Health Maintenance Organizations  
 Agent license; 806 KAR 38:020  
 Motor Vehicle Repairs (No-Fault)  
 Proof of insurance; 806 KAR 39:070  
 Prepaid Dental Plan Organizations  
 Agent license; 806 KAR 43:010  
 Trade Practices, Frauds  
 Mass merchandising; 806 KAR 12:100  
 Mortality tables; 806 KAR 12:110  
 Unfair claims; 806 KAR 12:090

**LABOR**

Occupational safety, health; 803 KAR 2:020

**LAW**

Consumer protection; 40 KAR 2:010

**LEGISLATIVE RESEARCH COMMISSION**

Capital construction; 1 KAR 3:005

**LIVESTOCK SANITATION**

(See AGRICULTURE)

**LOCAL GOVERNMENT**

Development Finance  
 Area development fund; 109 KAR 9:010 and E

**LOCAL SERVICES (EDUCATION)**

Board member qualifications; 702 KAR 1:120 and E

**MEDICAL ASSISTANCE**

(See SOCIAL INSURANCE)

**MEDICAL LICENSURE**

Application; 201 KAR 9:024  
 Advertising; 201 KAR 9:018  
 Disciplinary proceedings; 201 KAR 9:081  
 Endorsement; 201 KAR 9:023  
 Examinations; 201 KAR 9:031  
 Fee schedule; 201 KAR 9:041  
 KRS 311.571; 201 KAR 9:025  
 Licenses; 201 KAR 9:051  
 Licenses, limited; 201 KAR 9:061  
 Permits; 201 KAR 9:071  
 Proceedings, informal; 201 KAR 9:082  
 Schools; 201 KAR 9:021 and E

**MILITARY AFFAIRS**

Air transport, use of state aircraft; 106 KAR 1:040

**MILK, CREAM**

Sampling, weighing; 12 KAR 5:040  
 Testing; 12 KAR 5:020  
 Test samples; 12 KAR 5:030

**MILITARY AFFAIRS**

Disaster, emergency services; 106 KAR 1:020

**MINES, MINERALS**

Explosives, Blasting  
 Explosives; 805 KAR 4:087  
 Explosive charges, electric blasting; 805 KAR 4:110  
 Oil, Gas  
 Underground injection control; 805 KAR 1:110

**MOTOR VEHICLE COMMISSION**

Temporary sales location; 605 KAR 1:150

**NATURAL RESOURCES,****ENVIRONMENTAL PROTECTION**

Environmental Protection  
 Air pollution; 401 KAR Chapters 50 through 63  
 Waste management; 401 KAR Chapters 30 through 49; 401 KAR Chapter 100  
 Water; 401 KAR Chapters 4, 5, and 6  
 Natural Resources  
 Water Patrol; 402 KAR Chapter 4  
 Forestry; 402 KAR Chapter 3  
 Nature Preserves Commission; 400 KAR Chapter 2  
 Reclamation  
 Bonds, insurance; requirements for; 401 KAR Chapter 10  
 Oil shale; 405 KAR Chapter 30  
 Provisions, general; 405 KAR Chapter 7  
 Strip mining; 405 KAR Chapter 1  
 Surface mining, standards for; 405 KAR Chapter 16



**NATURAL RESOURCES, ENVIRONMENTAL PROTECTION (cont'd)**

Underground mining activities; 405 KAR Chapter 18  
Underground mining, surface effects; 405 KAR Chapter 3  
Regional Integrated Waste Treatment and Disposal Facility Siting Board; 410 KAR Chapter 1

**NATURE PRESERVES COMMISSION**

Dedication, registration; 400 KAR 2:030  
Definitions; 400 KAR 2:010  
Hearings, appeals; 400 KAR 2:050  
Nature preserves; 400 KAR 2:040

**NURSING**

Continuing education; 201 KAR 20:210  
Provider approval; 201 KAR 20:220

**NURSING HOME ADMINISTRATORS**

Licensure; 201 KAR 6:010

**OCCUPATIONAL SAFETY, HEALTH**

Workplace Standards  
29 CFR Part 1910; 803 KAR 2:020

**OCCUPATIONS, PROFESSIONS**

Examiners, registration of architects; 201 KAR 19:035 to 201 KAR 19:095  
Medical licensure; 201 KAR 9:018 to 201 KAR 9:083  
Nursing; 201 KAR 20:210; 201 KAR 20:220  
Nursing home administrators; 201 KAR 6:010  
Ophthalmic dispensers; 201 KAR 13:040; 201 KAR 13:050  
Pharmacy; 201 KAR 2:040 to 201 KAR 2:190  
Physical therapy; 201 KAR 22:010 to 201 KAR 22:110  
Real Estate Commission; 201 KAR 11:180  
Veterinary Examiners; 201 KAR 16:010

**OPHTHALMIC DISPENSERS**

Apprentices; 201 KAR 13:050  
Licensing; application, examination, temporary permit; 201 KAR 13:040

**PHARMACY**

Drug products, bioequivalence problems; 201 KAR 2:135  
Intern registration; 201 KAR 2:040  
Prescription drugs, return prohibited; 201 KAR 2:190

**PHYSICAL THERAPY**

Assistants; certification, renewal; 201 KAR 22:106; 201 KAR 22:110  
Foreign trained; 201 KAR 22:070  
Licensing procedure; 201 KAR 22:031  
Licensure, method of applying; 201 KAR 22:020  
Objectives; 201 KAR 22:010  
Refusal, revocation, etc.; 201 KAR 22:052  
Renewing licenses; 201 KAR 22:040

**PLUMBING**

(See HOUSING, BUILDINGS AND CONSTRUCTION)

**PUBLIC ASSISTANCE**

(See SOCIAL INSURANCE)

**PUBLIC PROTECTION, REGULATION**

Alcoholic Beverage Control  
Advertising distilled spirits, wine; 804 KAR 1:100 to 804 KAR 1:120  
Advertising malt beverages; 804 KAR 2:005  
Licensing; 804 KAR 4:240 to 804 KAR 4:270  
Quotas; 804 KAR 9:050 and E  
Retail premises; 804 KAR 7:045  
Crime Victims Compensation Board; 107 KAR 1:030

**PUBLIC PROTECTION, REGULATION (cont'd)**

Financial Institutions  
Thrift institutions; 808 KAR 3:050  
Housing, Buildings and Construction  
Building code; 815 KAR Chapter 7  
Plumbing; 815 KAR 20:055 to 815 KAR 20:150  
Insurance  
Administration; 806 KAR 2:090 to 806 KAR 2:100  
Agents, consultants, solicitors, adjusters; 806 KAR 9:180  
Assets, liabilities; 806 KAR 6:060 to 806 KAR 6:080  
Contracts, life, annuity; 806 KAR 15:030; 806 KAR 15:010  
Health maintenance organizations; 806 KAR 38:020  
Motor vehicle reparations (no-fault); 806 KAR 39:070  
Prepaid dental plan organizations; 806 KAR 43:010  
Trade practices, frauds; 806 KAR 12:090; 806 KAR 12:100  
Mines, Minerals  
Explosives, blasting; 805 KAR 4:087 to 805 KAR 4:110  
Oil, gas; 805 KAR 1:110  
Public Service Commission; 807 KAR 5:001 to 807 KAR 5:011  
Racing  
Harness; 811 KAR Chapter 1  
Thoroughbred; 810 KAR Chapter 1

**PUBLIC SERVICE COMMISSION**

General rules; 807 KAR 5:006 and E  
Rules of procedure; 807 KAR 5:001  
Tariffs; 807 KAR 5:011

**PUPIL PERSONNEL SERVICES**

Food Service Programs  
Competitive foods rule; 703 KAR 1:090  
Terms, Attendance, Operation  
Attendance; 703 KAR 2:050  
Terms, months; 703 KAR 2:010

**PURCHASING**

Model Procurement Code  
Small purchase procedures; 200 KAR 5:308

**RACING**

Harness  
Association with undesirables prohibited; 811 KAR 1:160  
Licensing; 811 KAR 1:070  
Officials; 811 KAR 1:150  
Review, appeal; 811 KAR 1:105  
Standardbred development fund; 811 KAR 1:215  
Stimulants, drugs; 811 KAR 1:090  
Track deductions from wagers; 811 KAR 1:195  
Thoroughbred  
Jockeys, apprentices; 810 KAR 1:009

**REAL ESTATE COMMISSION**

Promotion; out-of-state property, registration, prerequisites; 201 KAR 11:180

**RECLAMATION**

Bonds, Insurance; Requirements  
Cancellation of surety bonds; 405 KAR 10:035 and E  
General Provisions  
Applicability; 405 KAR 7:030  
Blasters certification; 405 KAR 7:070  
Definitions, abbreviations; 405 KAR 7:020  
Reference material; 405 KAR 7:015E  
Oil Shale  
Reference material; 405 KAR 30:015E



## RECLAMATION (cont'd)

### Strip Mining

- Reference material; 405 KAR 1:015E
- Surface Mining, Standards
  - Contemporaneous reclamation; 405 KAR 16:020 and E
  - Explosives; 405 KAR 16:120
- Underground Mining Activities
  - Explosives; 405 KAR 18:120
- Underground Mining, Surface Effects
  - Reference material; 405 KAR 3:015E

## REGIONAL INTEGRATED WASTE TREATMENT AND DISPOSAL FACILITY SITING BOARD

- Application process; 410 KAR 1:010
- Fees; 410 KAR 1:020

## RETIREMENT

### KERS

- Contributions, interest rates; 105 KAR 1:010
- Payment options; 105 KAR 1:080 and E

## SEXUAL OFFENSES, VICTIMS

- Payment schedule; hospitals, physicians; 40 KAR 3:010 and E

## SOCIAL INSURANCE

### Food Stamp Program

- Additional provisions; 904 KAR 3:050 and E
- Certification process; 904 KAR 3:035 and E
- Coupon issuance procedures; 904 KAR 3:045
- Eligibility requirements; 904 KAR 3:020
- Reference material; 904 KAR 3:090 and E

### Medical Assistance

- Alternative birth centers; 904 KAR 1:180; 904 KAR 1:190
- Drug payment; 904 KAR 1:020 and E
- Hearing service payment; 904 KAR 1:039
- Hospital inpatient services; 904 KAR 1:013
- Intermediate care, facility services; 904 KAR 1:024
- Medical transportation payments; 904 KAR 1:061 and E
- Medically needy; 904 KAR 1:004 and E
- Mental health center; 904 KAR 1:045
- Overpayments, recoupment; 904 KAR 1:110
- Physicians' services; 904 KAR 1:009
- Podiatry services; 904 KAR 1:270 and E; 904 KAR 1:280 and E
- Primary care; 904 KAR 1:055 and E
- Reference material; 904 KAR 1:250 and E
- Skilled nursing, facility services; 904 KAR 1:022
- Skilled nursing, intermediate care; 904 KAR 1:036 and E
- Technical eligibility requirements; 904 KAR 1:011 and E

### Public Assistance

- AFDC; need, amount; 904 KAR 2:016 and E
- AFDC; reference material; 904 KAR 2:150 & E
- AFDC; technical requirements; 904 KAR 2:006 and E
- Aged, blind, disabled; 904 KAR 2:015
- Child support program; 904 KAR 2:020 and E; 904 KAR 2:170 and E
- Collections; 904 KAR 2:200 and E
- Disability determinations; 904 KAR 2:160 and E
- Hearings, appeals; 904 KAR 2:055
- Home energy assistance; 904 KAR 2:115E; 904 KAR 2:116 and E; 904 KAR 2:180 and E
- Payments; 904 KAR 2:050
- Reference material; 904 KAR 2:150 to 904 KAR 2:190
- Refugee assistance; 904 KAR 2:110; 904 KAR 2:190E
- Supplementary policies; 904 KAR 2:140 and E

## SOCIAL SERVICES

### Aging Services

- Allocation formula; 905 KAR 8:040E
- Audit guide; 905 KAR 8:010E
- Contractors; 905 KAR 8:050E
- Financial management, nutrition guide; 905 KAR 8:080E
- Homecare allocation formula; 905 KAR 8:130E
- Homecare fee schedule; 905 KAR 8:110E
- Homecare policy manual; 905 KAR 8:120 and E
- Homecare standards; 905 KAR 8:020
- Meal standards; 905 KAR 8:030E
- Ombudsman policy, procedure; 905 KAR 8:070
- State plan; 905 KAR 8:060 and E

### Child Welfare

- Baby Doe; 905 KAR 1:150E
- Child abuse self-help; 905 KAR 1:170
- Policy, procedures manual; 905 KAR 1:180 and E

### Children's Residential Services

- Continuum of care; 905 KAR 7:040E
- Day treatment, procedural manual; 905 KAR 7:020 and E
- Facilities capacity; 905 KAR 7:060E
- Facilities manual, residential; 905 KAR 7:030 and E
- Facilities manual, treatment; 905 KAR 7:080 and E

- Group home, procedural manual; 905 KAR 7:050
- Patient charges; 905 KAR 7:090
- Policy manual; 905 KAR 7:010E
- Resident liaison responsibilities; 905 KAR 7:100 and E

- Staff training; 905 KAR 7:070E

### Community Action Agencies

- CSBG audit guide; 905 KAR 6:030 and E
- CSBG program plan; 905 KAR 6:020E

### Spouse Abuse, Crisis Centers

- Matching formula, general funds; 905 KAR 5:030
- Standards; 905 KAR 5:010

## SOCIAL WORKERS

- License; renewal, fee; 201 KAR 23:030

## SOLAR ENERGY

- Tax credit; 115 KAR 2:020

## SOLID WASTE

- (See WASTE MANAGEMENT)

## STATE HEALTH PLAN

- Plan; 902 KAR 17:010 and E
- Process; 902 KAR 17:020

## TOLL FACILITIES

- Appearance requirements; 600 KAR 2:040
- Assessment on turnpikes; 600 KAR 2:010
- Credit cards; 600 KAR 2:030
- Emergency vehicles, processions; 600 KAR 2:020

## TOURISM

### Fish, Wildlife

- Fish; 301 KAR 1:016 to 301 KAR 1:160
- Game; 301 KAR 2:044 to 301 KAR 2:200

## TRANSPORTATION

### Administration

- Disciplinary actions; 600 KAR 1:040
- Employee conduct, time; 600 KAR 1:050
- Motor pool; 600 KAR 1:070
- Public hearings; 600 KAR 1:030
- Safety hard hats; 600 KAR 1:060

### Aeronautics

- Airport development; 602 KAR Chapter 15

### Highways

- Maintenance; 603 KAR Chapter 3



**TRANSPORTATION (cont'd)**

Mass transportation; 603 KAR Chapter 7  
 Scholarship program; 603 KAR Chapter 8  
 Traffic; 603 KAR Chapter 5  
 Motor Vehicle Commission; 605 KAR Chapter 1  
 Toll Facilities; 600 KAR Chapter 2  
 Vehicle Regulation  
   Coal transportation; 601 KAR Chapter 35  
   Driver improvement; 601 KAR Chapter 13  
   Motor carriers; 601 KAR Chapter 1  
   Motor vehicle tax; 601 KAR Chapter 9

**UTILITIES**

(See PUBLIC SERVICE COMMISSION)

**VEHICLE REGULATION**

Coal Transportation  
   Extended weights; 601 KAR 35:050 and E  
   Forms; 601 KAR 35:010 and E  
   General tax provisions; 601 KAR 35:040 and E  
   Plan, agreements; 601 KAR 35:020 and E  
 Driver Improvement  
   Accident prevention course; 601 KAR 13:040 and E  
   Alcohol education, treatment; 601 KAR 13:050 and E  
 Motor Carriers  
   Highway motor fuel surtax, exemptions; 601 KAR 1:030 and E  
   Special permits; 601 KAR 1:015 and E  
 Motor Vehicle Tax  
   Handicapped license plates; 601 KAR 9:011 and E  
   Highway use license, taxes, records; 601 KAR 9:074 and E  
   National Guard plates; 601 KAR 9:015 and E

**VETERINARY EXAMINERS**

Code of conduct; 201 KAR 16:010

**VITAL STATISTICS**

Certificates, fees; 901 KAR 5:050

**VOCATIONAL EDUCATION**

Adult Education  
   Completion certificate; 705 KAR 4:205  
   General standards; 705 KAR 4:010  
 Instructional Programs  
   Admission standards; 705 KAR 7:070

**VOCATIONAL REHABILITATION**

Administration  
   Three-year plan; 706 KAR 1:010

**WASTE MANAGEMENT**

General Administrative Procedures  
   Definitions; 401 KAR 30:010  
   Reference documents; 401 KAR 30:070 and E  
 Hazardous Waste, Generator Standards  
   Manifest; 401 KAR 32:020; 401 KAR 32:100  
   Special conditions; 401 KAR 32:050  
 Hazardous Waste, Identification, Listing  
   Basis for listing; 401 KAR 31:160  
   Constituents; 401 KAR 31:170  
   Lists; 401 KAR 31:040  
 Solid Waste Facilities  
   Landfarming; 401 KAR 47:050  
   Permit process; 401 KAR 47:020  
 Solid Waste Planning  
   Area plan, submission; 401 KAR 49:010  
   Assistance program; 401 KAR 49:040  
   Designation; 401 KAR 49:030  
   General provisions; 401 KAR 49:010

**WATER**

Sanitary Engineering  
   Plants, distribution systems, operator certification; 401 KAR 6:040  
   Reference material; 401 KAR 6:200 and E  
 Water Patrol  
   Registration decal; 402 KAR 4:030  
   Zoned use areas; 402 KAR 4:190  
 Water Resources  
   Reference material; 401 KAR 4:200 and E  
 Water Quality  
   Application, KPDES; 401 KAR 5:060  
   Classification; 401 KAR 5:026  
   Definitions, general provisions, KPDES; 401 KAR 5:050  
   General provisions; 401 KAR 5:029  
   Permit conditions, KPDES; 401 KAR 5:065  
   Permit provisions, KPDES; 401 KAR 5:070  
   Reference material; 401 KAR 5:200 and E  
   Scope, applicability, KPDES; 401 KAR 5:055  
   Surface water standards; 401 KAR 5:031  
   Wastewater system operators, classification; 401 KAR 5:010

